





# THE INITIATIVE AND REFERENDUM

BY

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To The President  
who dares to say:

"But woe be unto us if we are not  
Americans first and party men  
second." With Compliments of  
The author.

## PREFACE

What shall we do to save our large cities from perdition? is the cry of superficial reformers.

It is plain that there is but one answer to the query: "Let them alone!"

In order to demonstrate the propriety and practicability of this course, the following pages have been written. It has been my earnest endeavor to show that all the people must be given the opportunity to do what a few have tried in vain to do—namely, to solve the "Problem of Government of Cities," which has baffled the efforts and taxed the ingenuity of political and social reformers ever since the monarchical system of City Charters was grafted upon the free institutions of the country.

I have further tried to show that the ruinous spirit of political partisanship in purely local affairs has produced the monstrosity known

as the "Boss;" that the unbridled license with which the representative bodies of many of our states and municipalities have prostituted their power to legislate is but the legitimate outcome of these political abnormities. Believing with Thomas Jefferson that "the people are capable of self-government; that the people voice an unselfish sentiment to law-making when the laws are submitted to them for sanction, I have been impelled, as a lover of my adopted country, to use whatever ability I possess in furtherance of the system of self-government which Motley says is "the life blood of liberty."

To attract the attention of the student, with the hope of instructing him in the origin and historical development of the institution known as the Initiative and Referendum, I have devoted two chapters, exclusively, to this subject, as well as one upon its practical exercise in Switzerland. When the fact is considered that, according to the last census, more than one-quarter of the people of the United States live in 159 cities; that these cities are the centers of political activity, wielding commanding influence, apart from their local affairs, over state

and national politics, the question of their proper government should be of absorbing interest to all the people of the country.

HERMANN LIEB.





# THE INITIATIVE AND REFERENDUM.

## INTRODUCTION.

These terms having been borrowed from Switzerland, their import seems not to be thoroughly understood by the American people, although, under various designations, the political principle has been in practical operation in this country since 1620. Therefore, a plain definition at the beginning of this volume appears necessary in order to allay the apprehension that the principle represented by them is of foreign importation. They are of Latin origin, *Initium*—to introduce by first act, and *Referre*—to carry or send back, and were adopted by several Swiss cantons to designate the duties of the delegates to the Tagsatzung, or Federal Diet. As above stated, both the Initiative and Referendum—in their ethical sense—were introduced into this country long before in use in their present form by the Swiss Confederacy.

The New England Town-Meeting corresponds almost exactly to the ancient Swiss Landsgemeinde, the difference being principally in territorial extent. In the latter instance, all citizens of their cantons attended

these popular assemblies while in the former only the people of a town took part, for the simple reason that, in those early days the town was the only organized body for the transaction of public business. The Town-Meetings of the Colonies, however, were more democratic than the Swiss Landsgemeinde, inasmuch as the former elected their moderator from among their midst, while the Landammann, or chief magistrate of the canton, presided at their gatherings. In the town-meeting the motions were made, that is, *initiated*, by some townsman present, while the measure to be voted upon at the Landsgemeinde, was generally prepared by a small number of citizens, and thereupon submitted to a vote of the gathering for their action.

To illustrate the operation of the *Referendum* is but to describe the proceedings of a town-meeting, called by a certain number of citizens, or by its constituted authorities, a majority of the voters of the town being present.

The meeting is called to order and a moderator elected.

"What is the pleasure of the meeting?" asks the moderator.

Some citizen rises and addressing the chair, says: "There is, in my opinion, a general demand in our town for a new school house;"

thereupon he makes the motion to erect one, at a cost not to exceed \$5,000.

This motion constitutes the Initiative, since the measure for the erection of the structure was introduced or initiated by some member of the assembled citizens.

The motion now in the hands of the moderator is submitted, or referred by him to the townsmen present for discussion, adoption or rejection; a majority vote decides its fate.

This reference, of the question by the presiding officer to the whole meeting, constitutes the *Referendum*.

This simple proceeding fully exemplifies the principle of self-government, of which the Initiative and Referendum are the embodiment.



## CHAPTER I.

### HISTORICAL SKETCH—ORIGIN OF THE REFER- ENDUM.

It is a significant fact that Americans who can trace their ancestry to England refer with a feeling of pride to their Anglo-Saxon origin. It can not be a sentiment of blood relationship with this ancient race, for this has been unrecognizably intermixed and diluted with the blood of other races; it must, therefore, be on account of some conspicuous characteristic, for which these people are known in history to excel, that the Anglo-American prides himself to be a descendant. The Anglo-Saxons were a brave and warlike people, but so were the Irish, the Scots, the Picts and the ancient Britons. The quality, however, in which they most peculiarly excelled, was their unquenchable love of liberty and their unyielding attachment to the free institutions of self-government, which their ancestors had brought over from Germany. It is this virtue that renders their memory dear to the heart of a genuinely patriotic American, and he may well feel proud of his inheritance; it is the most

ancient, best preserved and most unique, we may say, among the peoples of the civilized world. Ancient Greece had her period of republican liberty; so had Rome, but in neither republics was the principle of freedom so deeply rooted in the hearts of men as in ancient Germany, and while almost the remembrance of Greek and Roman liberty has faded away, Teutonic liberty has withstood the revulsions of time and survives to this day.

This peculiar virility of Teutonic freedom is not to be attributed to its spirit alone, but to the rational common sense methods of its exercise. In the mind of the ancient Teuton, all men were created equal; hence no one was born to command; no one to enjoy rights not enjoyed by all, and it was in this sense that their popular assemblies were conducted, and upon this conception of human society they reared their political structure. "They lived free among freemen," says the Roman historian Tacitus. "Acknowledged no superior but the chief of their own choice; recognized no master but the laws of their own making; administered justice at their public gatherings themselves, minor matters only being passed upon by the chiefs; but all matters of importance were referred to the whole people for settlement." These free institutions were identical all over ancient Germany; from

the foot of the Alps, where the warlike tribe of the Allemani—the most determined foe of the Romans—occupied the territory now included in the German part of Switzerland, all of the southern part of modern Germany, and north to the shores of the Baltic, inhabited by the brave and adventurous Saxons, Jutes and Angles. During the year 490 A. D. the southern part of Germany was overrun by the western Franks, under the conquering Clovis, who incorporated the major part of it with his kingdom, forming of the rest the Dukedom of Allemani. A large number of the inhabitants, unwilling to surrender their liberties to a foreign ruler, fled into the mountain recesses of the Swiss Alps, where they found security from royal rapacity and predatory incursions, owing to the scarcity of tillable land. There, vestal-like, they kept watch over the fires of liberty for more than eight hundred years. In the latter part of the Thirteenth Century, however, the Dukes of Austria raised the claim of suzerainty over their country and assumed the right to appoint governors over them. Rising in patriotic fervor against this proposed suppression of their ancient liberties, a struggle of nearly two hundred years followed, ending in a most glorious victory for justice and right, forming one of the brightest pages of Swiss history.

While some of the Southern Allemanni had thus migrated into the valleys of Switzerland, the Angles, Saxons and Jutes, unconsciously, were preparing to lay the foundations of mighty nations to the west of them. Long before the Roman invasion of Britain these northern tribes of Germany enjoyed commercial relations with the Britons, thereby gaining important and useful information concerning their country. After the departure of the Romans they frequently assisted their neighbors in their border wars with the Picts and Scots, and so valiantly did they bear themselves that they were invited by the Britons to come over and settle among them under promise of rich lands. Enervated through the military rule of the Romans, lasting nearly four centuries, the Britons were no match for the energetic and pushing newcomers; quarrels were frequent, ending in bitter feuds, and true to the maxim of the survival of the fittest, the Saxons gained the upper hand, gradually obtaining authority, which culminated in the Seventh Century in the absolute mastery of the country. The introduction of the language, laws—in modern parlance termed common law—and customs of the fatherland naturally followed. With the exception of occasional interruptions from the Danes, the Saxons retained supremacy until the Norman conquest.



The Normans brought with them the feudal system then in force in France; the lands were parceled out among the conquerors' followers, the Saxon freeholds changed to feudal tenures and the freeman, who heretofore had acknowledged no superior save his self-chosen chief, was gradually reduced to the debased and despised condition of villain—a French term signifying all that is low and servile—so that by the middle of the Thirteenth Century England's peasantry was but a step removed from slavery. On the other hand, the ruling classes, which for accuracy's sake, shall hereafter be designated as the official Englishmen, who boast today of being the original descendants of the Anglo-Saxons and the patriotic transmitters of Teutonic institutions have adhered to the record of the Norman tribes—known in ancient history as the "Pirates of the North"—through the last six hundred years with remarkable consistency. Centuries before their conquest of England the Normans ravaged the Atlantic and Mediterranean coasts from the mouth of the Rhine to the walls of Constantinople, entering their rivers, sacking and burning the cities along their banks. Such places as Cologne and Mainz and other large cities of interior Germany, exposed to their nautical incursions, were made the victims of these maritime Huns. Finally

they invaded Northwestern France in combined and overwhelming force, securing from the French King the finest portion of his territory, the only condition exacted that they accept Christianity—a bargain readily concluded. This trading in heavenly futures for earthly possessions has been ever since the favorite method employed by official England for acquiring the Real Estate of other peoples.

Under the pretext of Christianizing, civilizing and assimilating the untutored savage, they have seized the countries of the weak, until England has come into possession of nearly one-quarter of the inhabitable globe. While official England thus continued to play the role performed by their predatory ancestry, for the sole and exclusive benefit of their own class, the mass of real Englishmen, the people with gainful pursuits, in the counting room, workshop, study and on the farm, not only were compelled to come up for the expenses of these Christianizing ventures, but in the meantime were robbed of their own liberties. Nevertheless, during all this period of might over right the flame of Teutonic liberty was kept burning in the towns and cities of England.

“In the silent growth and elevation of the English people,” says the historian Green, “the boroughs led the way. Despoiled and despised by nobles and prelates, they alone had pre-

served, or won back again the full tradition of Teutonic liberty. The right of self-government, of free speech, in free meeting, of equal justice by one's equals, was brought safely across the ages of tyranny by the burghers and shop-keepers of the towns. In the quiet, quaint-named streets, in the Lord's mill, beside the stream, in mead and market-place, in the bell that swung out its summons to the crowded borough-mote, in merchants' guild, church guild and craft guild, lay the life of Englishmen, who were doing more than Knight and Baron to make England what she is in the life of their home and trade, their sturdy battle with oppression, their steady, ceaseless struggle for right and freedom."

The official Englishman claims the credit of having exacted the Magna Charta from King John, and some unthinking people style them the "patriots of their time." But what are the stubborn facts in the case? The Normans claimed and exercised almost despotic authority over the old nobility of the rural districts, resulting in incessant struggles, which conflicts culminated in the important concession contained in the Magna Charta. These concessions, however, were but relinquishments of rights and privileges formerly enjoyed by the Anglo-Saxons. The nobles, in order to secure their own privileges, invited and ob-

tained the co-operation of a great part of the clergy, all of the cities and towns consequently found themselves in a position to throw such superiority of interests against the interests of the King that their demands were acquiesced in. The villains, at the time, probably formed a majority of the inhabitants of England. The word "villain," however, appears but once in the charter, and that was meant to include only the villains in the immediate service of the nobles; this mention was subsequently construed to embrace the villains as a class. To this fortunate construction the gradual emancipation of villainage was due. A constantly increasing class began to understand the protection the great Bill of Rights threw around them and to defend its measures. Thus was regained through an apparently insignificant circumstance, after centuries of conflict, many of the primitive rights enjoyed by their Teutonic ancestors. Again, during the middle of the Seventeenth Century, there was a sudden tide in England's sturdy population. It was a religio-political uprising against official persecution and kingly tyranny. Broadly reviewed, the decapitation of Charles I. was but the dramatic denouement of the struggles between the liberty-loving people of England and English officialism during the preceding century. The lessons administered to kingly and official

arrogance by the plain people in the rural districts through their sturdy Cromwellian representatives proved as wholesome as they were drastic.

## CHAPTER II.

### THE INITIATIVE AND REFERENDUM AT PLYMOUTH ROCK.

Almost a century before King Charles' execution the state religion of England had been changed from Catholic to Protestant, but this change was not fundamental enough to suit the religious views of a large number of the inferior clergy and their flocks. They maintained that their religious convictions were matters strictly individual, with which the government had no concern. This spirit of non-compliance was construed into rebellion against the state, punishable by banishment, imprisonment or death. Many preferred voluntary exile and a small number drifted over to North America.

In the early part of the Seventeenth Century an apparently insignificant event took place on that portion of the Atlantic coast, since known as New England, which appears to have fixed the destiny of the North American continent as the land forever to remain a secure asylum for the full and uninterrupted exercise of human liberty. On the 11th of November, 1620, a small craft, named the Mayflower, carrying

one hundred passengers, women and children included, was anchored near Cape Cod. Forty-one of the males were assembled in the cabin putting the finishing touches to a governmental system which they proposed to inaugurate on reaching the shore. These men were of English birth, but English officialism had driven them ten years before to take refuge in a foreign land where liberty of conscience could be enjoyed. The ancient Teutonic liberties were still held in respect in Holland, and it was there, breathing the invigorating air of political and religious freedom, that the Anglo-Saxon traditions of liberty so consonant with their conception of the true Christian spirit and doctrine were rekindled.

Unwilling to sacrifice their convictions in matters of religious forms—a condition precedent to a safe return to the land of their birth—their eyes were turned toward the New World, where a fair field for the establishment of a government in accord with their political and religious convictions invited them.—These brave Englishmen came from a stock possessed of every qualification necessary for the foundation of a free commonwealth in the wilds of North America; an inborn love of freedom; an unbending will in the furtherance of a lofty purpose and an abiding trust in Divine Providence. The sharp-edged religious methods and

the extreme austerity of their manners have been freely criticised. But who will say that these apparently illiberal traits of character may not have proven the essential attributes to their unparalleled success? It was this small band of liberty-loving burghers in the cabin of the Mayflower that drew up the first political document ever issued on the American Continent, for a government of, by and for themselves. The following is its verbatim text:

"In the name of God, Amen. We, whose names are underwritten, the loyal subjects of our dread sovereign Lord, King James, having undertaken, for the glory of God, the advancement of the Christian faith, and honor of our King and country, a voyage to plant the first Colony in the Northern part of Virginia, do by these presents, solemnly and mutually, in the presence of God and of one another, covenant and combine ourselves together, into a civil body politic, for our better ordering and preservation and furtherance of the ends aforesaid; and by virtue hereof do enact, constitute and frame, such just and equal laws, ordinances, acts, constitutions and offices, from time to time, as shall be thought most meet and convenient for the good of the colony, unto which we promise all due submission and obedience."



This most memorable event in the annals of American history took place during a period when the inhabitants of the Old World, without a notable exception, were yet suffering under the barbarous system of the middle ages, and when it is remembered that these Pilgrims, who formulated this first American Constitution, were all of humble origin, not one emanating from England's privileged class, the performance challenges the admiration of the world. The seed of popular self-government sown by the Pilgrims took vigorous root in the virgin American soil. Thus, we perceive the system of home rule, which is called the Initiative and Referendum, is of native growth.

It is true that this popular institution has been more fully developed in Switzerland, but the only thing we have borrowed from the Alpine Republic is the name. This was used in that country in ancient times, when the cantonal representatives to the Federal Diet were not permitted to finally determine important questions brought before that federal body, but were compelled to refer them back to their constituents for final adjudication; hence the term "referendum." There is no doubt whatever that the introduction of that ancient system, if not in name, in form and spirit, is solely due to the pilgrim fathers of the Mayflower. The methods adopted for the practical

exercise of the principles involved in their declarations have since been styled, the New England town-meeting. Thomas Jefferson, in speaking of this wise institution, said: "It has proven to be the wisest invention ever devised by the wit of man for the perfect exercise of self-government and its preservation.

\* \* \* Where every man is a sharer in the direction of his ward, and feels that he is a participator in the government of its affairs, not merely at an election, one day in the year, but every day. \* \* \* When there shall not be a man in the state who will not be a member of some one of its councils, great or small, and who will let the heart be torn out of his body sooner than allow his powers to be wrested from him by a Cæsar or a Bonaparte."

Though the *modus operandi* of carrying on a New England town-meeting is somewhat different from that practiced by the ancient Teutons in their Folk-mote, or the ancient Swiss in their Landsgemeinde, or in modern Switzerland under the terms, *Initiative and Referendum*, in spirit and purpose they are precisely the same. It is this institution that makes the often quoted phrase of a government of, by, and for the people an active, living truth. The Christian world calls the advent of the Pilgrims on the Western Continent providential.

The skeptic may call it natural evolution, the fact remains that, while the nations of the Old World had struggled for ages in the vain effort to maintain or regain their God-given rights of life, liberty and the pursuit of happiness, the northern half of the Western Hemisphere apparently has been set apart, reserved as it were, by some protecting power for the free exercise of these rights. Who is the wise man able to calculate the consequences that might have resulted to America from the loss of the Mayflower with its little band bearing to the New World the old Teutonic liberties?

Spain had already laid her iron hand upon what is now the best part of the United States; the feudal system of land tenure had been introduced by France in the North. Before the landing of the Pilgrims, with the sole exception of New Amsterdam, no rational and combined effort had been made looking toward the establishment of a free, self-governing commonwealth. Who will maintain but for this incident at Plymouth Rock the Declaration, which was but the amplification of the great principles there put in operation, would have been formulated, or the great American Republic ever seen the light of day?

## CHAPTER III.

### POLITICAL DEGENERATION.

The United States may be said to have evolved out of a small number of self-governing settlements into a unique commonwealth, both in a political and social aspect. Its people were the first ever recorded to have started their national existence with the bold pronunciamiento, "All men are created equal;" the first so peculiarly blessed with institutions favorable to the development of human faculties, the promotion of individual and public well-being, and for the exercise of rational freedom. The aggressive step of the colonists in vindication of human rights precipitated them into an unequal conflict with a powerful monarchy; but on the other hand, the heroic action of this handful of patriots enlisted the sympathies of liberty-loving Frenchmen, by whose assistance they succeeded in maintaining their manly stand. While the war was raging the thirteen colonies constituted themselves into a confederacy, under the style of the United States of America. The Articles of Confederation were soon found to be inadequate in many respects, unnecessary here to

enumerate, all of which affected mere material interests, however, nothing having occurred in the meantime to necessitate, or justify the modification or elimination of the cardinal principles therein enunciated, namely: the explicit recognition of the people's ultimate power and constant control over their agents, the Representatives. As a historic document in the evolutionary process of the Republic these Articles of Confederation stand, in one point at least, next to the Declaration itself; in that point it is the embodiment of the people's most cherished rights. These articles have been the subject of ridicule and villification, but the first paragraph of Article Five, which contains the gist of the American Bill of Rights, confounds the trifling scoffer. Here is its verbatim text: "For the more convenient management of the general interests of the United States, delegates shall be annually appointed in such manner as the Legislature of each state shall direct, to meet in Congress on the first Monday in November, in every year, *with a power reserved to each state to recall its delegates or any of them, at any time within the year, and to send others in their stead for the remainder of the year.*"

This article contains all the rights and the power, and more than the American people contend for to-day. It is the full recognition

of the principle of self-government, in perfect harmony with the letter and spirit of the Declaration. It must be remembered, however, that among the members of the Confederate Convention there were fourteen signers of the Declaration who, inspired by the great truths subscribed to by themselves, were anxious to clothe them into the forms of organic law. These men, who, for the sake of their political convictions had run the risk of Great Britain's executioners, were determined that, all doubts as to the power of the people on the one hand and that of the Representatives on the other, should be removed by some specific provision, and the insertion of the above "imperative mandate" was the result.

The War for Independence was not an un-mixed good; it secured independence to the people of the country, but it also had the effect of forcing local and personal interests to the foreground, while the great principles for which the battles had been fought were being obscured.

Thus, while the Constitutional Convention of 1787, was composed of the ablest men of the country, it was not, in the aggregate, an assembly with the sole end in view of perfecting a governmental fabric of "By and for the people;" but rather one with a view of compromising conflicting interests, of which the insti-

tution of slavery formed the main subject of controversy. "Should slaves be considered as men or as property?" "Should the slaves be represented in Congress?" etc. The final outcome was ably described by Governor Morris, who said: "Thus, by a bargain between the commercial representatives of the Northern States and the delegates of South Carolina and Georgia, and in spite of the opposition of Maryland and Virginia, the unrestricted power of Congress to pass navigation laws was conceded to the Northern merchants, and to the Carolina rice planters, as an equivalent, to twenty years continuance of the African slave trade. This was the third great compromise. The other two were the concessions to the smaller states of an equal representation in the Senate, and to the slave-holders the counting of three-fifths of the slaves in determining the rates of representation. If this third compromise differed from the other two by involving not only a political but a moral sacrifice, there was this partial compensation about it: it was not permanent like the others, but expired at the end of twenty years by its own limitation."

Thus, between these conflicting interests, the most sacred interests of the people—that of their sovereign rights—were lost in the shuffle, and their power in the state was bodily, and

without reserve, handed over to their agents in Congress.

In the first article of the Federal Constitution it is provided that, "*All* legislative power herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and a House of Representatives." Note: All powers to legislate. That is all that is meant by the term sovereignty; the supreme and imperial power of the people. This short article of the Federal Constitution was the stroke of the pen that eliminated from the organic law of the land the last vestige of that vaunted supremacy of the people; it left but the shadow in their hands, and being necessarily followed by the framers of State Constitutions, the whole governmental fabric of the American Union was transformed from one of delegated to one of original powers—in fact if not in theory.

Consequently, while the American people have improved their grand opportunities in certain directions, and have advanced with giant strides upon almost every field of human endeavor, upon that of public concern they have not only failed to take any forward step, but have lost considerable ground. They have permitted the most important branch of their political existence to drift from the high ideals enun-



ciated in the Declaration of Independence into the slough of political partisanship; their proud self-assertion, evinced in all other fields, has degenerated into blind subservience to political party dictation, and their former patriotic devotion to the basic principles of the Republic, into unreasoning attachment to party; in short, they have permitted American citizenship to be supplanted by un-American partisanship. In tracing this seeming anachronism to its source we easily perceive it to be the logical, hence inevitable, outgrowth of our uncontrolled and unchecked system of representation; that is, the unreserved transfer—or as much as was possible—of the people's power into the hands of good, indifferent or venal agents, who, for one reason or another, by honest or dishonest methods, for good or evil purposes, succeed in being elected to some legislative body.

There was a time when the choice of representatives fell, as a rule, upon men of exalted reputation, character and superior education. In those days the Jeffersons and Franklins, the Hamiltons, Adamses, Madisons, Monroes, Clays, Websters and Calhouns, and of latter days the Summers, Trumbulls, Doolittles, Lincolns and Douglasses, and the rest of the intellectual giants stood in the legislative halls as the agents of the American people.

## CHAPTER IV.

### THE REPRESENTATIVE SYSTEM.

"The Representatives, to whom authority is delegated, are the servants of the masters, of their constituents, whose will it is their office to execute."—*Walker's American Law*.

The representative system is an institution, in the several governments of the American Union, established upon as firm a basis as the governments themselves. It is an inheritance, so to speak, and has become an established principle in the political conceptions of the American people.

But, while in former times it has proven to be the best method for carrying out the will of the people, that the system in our day is sadly in need of repairs is apparent to the most superficial observer.

It cannot be denied that, generally speaking, the intellectual and scholastic standard of the legislative bodies of the country is below that of a hundred years ago, for which, however, as stated in the previous chapter, the people are not responsible.

The decadence of the original idea that the representative is the servant of the people has

been gradual but complete. The position, to-day, is exactly reversed. While formerly the people delegated their agents to do their public business, which they faithfully performed, to-day the agent assumes the role of principal and performs the public business to promote his own political advancement or interest. This grotesque presumption of representative supremacy is thus curtly and definitely disposed of by Daniel Webster, the greatest expounder of the American Constitution:

"The sovereignty of government is an idea belonging to the other side of the Atlantic. No such thing is known in North America; with us all power is with the people. *They alone are sovereign, and they erect what government they please.*"

To appreciate this gradual deterioration of the representative system, and the obliteration of the spirit underlying it, we must take a retrospective glance to understand what the founders conceived to be the mutual relationship between the people and their agents.

Upon this point, George Washington held the following opinion: "The powers under the Constitution will always be with the people. It is *temporarily* intrusted to their representatives--their servants; they are no more than the creatures of the people."

James Madison more emphatically says:

"The Federal and State Governments are, in fact, but different agents and trusts of the people, instituted with different powers. The ultimate authority resides with the people alone."

Judge Parsons, of Massachusetts, in the ratifying convention of the state, characterized the Federal government as, "A government to be administered for the common good by the servants of the people vested with delegated powers."

Alexander Hamilton, in the ratifying convention of New York, while arguing in favor of the Constitution's adoption, said: "What is the structure of the government? The people govern!"

"Who gave may take back," said Chief Justice Marshall, while emphatically speaking of the people's control over their representatives:

Similar citations by the founders could be adduced by the score, if necessary, to remove any doubt as to their understanding of the relationship between the principals and their agents.

The experience of the last forty years has forced upon every reflecting citizen the conviction that a check upon legislative assumption and profligacy is absolutely necessary; and, since the people are the only superior power, this check must be applied by the people themselves.

It is not the intention of the advocates of this check to "take back," in the language of the Chief Justice, any of the prerogatives of the representatives, but, simply, to improve the system by which their duties are regulated. Nevertheless, it seems timely to remind some of the people, who labor under the delusion that, having delegated some of their powers they temporarily, at least, have surrendered a part of their sovereignty, they are seriously mistaken. The fact is, were they willing to make such surrender, it would be null and void, since things inherent and inalienable can never be alienated upon any pretense whatever.

The proposed attachment of a regulator to a fine piece of mechanism is an improvement to the machine. The Referendum is the regulator that must be applied to the Representative system to bring the country back to its original civic status.

## CHAPTER V.

### MACHINE RULE.

In his expose of the notorious operations of the Tweed ring in New York, Samuel J. Tilden has aptly defined the construction and aims of such combines: "The political ring," he says, "encircles enough influential men of each party to control the action of both party machines; men who in public push to extreme the abstract ideas of their respective parties, while they secretly join hands in schemes for personal power and profit."

"The head of this ring is a commander," says Mr. Bryce in his *American Commonwealth*. "He dispenses places, rewards the loyal, punishes the mutinous, concocts schemes and negotiates treaties. He generally avoids publicity, preferring the substance to the pomp of power, and is all the more dangerous because he sits, like a spider, hidden in the midst of his web."

Low cunning, absolute unscrupulousness and a retentive memory for names and faces, are the essential attributes of a political boss. He also knows that conservatism is the ruling human sentiment; such conservatism as is ex-

pressed in the popular idioms, "Let well enough alone;" "Rather suffer the evils we have than fly to others we know not of." "Never change horses while crossing the stream," etc. Hence, permanency in matters political is the desideratum of the boss. As long as political party fealty is made a point of honor, and can be emphasized and maintained as a quasi-religious test, while manly independence, civic pride and self-assertion may be successfully construed into political apostasy, so long the capture of a political machine is all that is necessary to make the "boss' " rule permanent and supreme. The methods of the "rings and bosses" in New York, as described by Mr. Tilden, are identical with those in Philadelphia, Baltimore, Cincinnati, Chicago and other large cities; all work toward the same ends—political power and public plunder. These men, having stolen the liveries of time-honored party organizations, impudently parade before the public as custodians of their fellow citizens' political consciences. Their work is performed behind closed doors, within limited circles, and it is only before elections, when the so-called workers from the slums emerge to the light of day, in order to execute the plans of the bosses; such, for instance, as fixing the primaries, stuffing the ballot-boxes, falsifying the returns, and, if necessary, to browbeat, maltreat and oc-

casionally maim or kill honest electors. Three or four individuals of obscure origin, without special qualifications, except that of arrogance, of questionable character and reputation, without a mandate from anybody, assume the political guardianship of their respective party voters, prescribing who is and who is not a member in so-called good standing in their ranks; what shall and what shall not form part of their party's program; who shall be Aldermen or Mayor of the city; Governor of the state; who shall represent the people in the State or Federal Legislatures; what shall be law and who shall administer justice in the courts.

The apparent indifference or acquiescence in these corroding conditions by the average citizen of large cities stand out in shocking contrast with the keen perception of right and wrong shown by him in all pursuits of daily concern, and while his strict business integrity, his spirit of enterprise and untiring energy in every other activity challenges universal admiration, his lack of individual self-assertion and his apparently "easy" civic conscience have become a byword and reproach. Nor can this surprising anomaly be explained by the common saying. "Our universal chase after the Almighty dollar," for no people on the globe can show more admirable results in the field



of philanthropic, artistic and literary endeavor during the last half of the last century; nor is it a lack of interest in the welfare of the Republic, for in every great crisis they have risen to the emergency with a disinterestedness and singleness of purpose possible only to a people with an exalted love of country.

How, then, is this singular paradox to be explained? Is it not an over-zealousness of party fealty, party prejudice, in a word, party idolatry in elections of municipal import only, which has rendered these citizens blind to every other consideration? Are these overzealous partisans, who would scorn the slightest act of dishonesty in their private business dealings, aware of the fact that, by a continued support of this corrupt political system with their votes, they make themselves *particeps criminis* in the high crimes and misdemeanors committed through its agency against the community?

They cannot plead ignorance about matters that are notorious; as, for instance, the fact that the principal, if not the sole inducement for the venal and vile to engage in politics and make it a profession, that the main source of corruption of our legislative bodies, both state and municipal, and the pollution of our jury system, are due to the exploitation of public utilities by private corporations.

Innumerable cases in point might be cited in support of these allegations, but one of the

most flagrant illustrations of recent date is that of the Pennsylvania street-railway bills, in which the methods of the political machine and representative turpitude, both state and municipal, in their most hideous proportions, are exposed.

During the latter part of May, 1901, two bills were introduced, containing almost unlimited power for the exaction of pelf from the inhabitants of the villages and cities of the state. "These bills," says Hon. Clinton R. Woodruff, in an article published in *Municipal Affairs*, "were introduced without any previous public announcement. They came as a surprise alike to the public of the State and to the numerous existing street railway corporations. There had been no demand at this session for additional legislation on the subject, nor had there been any discussion of it. There was a reason for this to be found in the fact that some of the officers of the traction companies of Philadelphia and Pittsburg had recently been more or less active in opposing Senator Quay's re-election to the United States Senate. Here, then, was an opportunity to secure franchises of great value and, at the same time, punish those who had the temerity to oppose the machine in the execution of its plans. In short, profit and revenge could be attained at the same stroke."

## CHAPTER VI.

### REPRESENTATIVE AND CORPORATE TURPITUDE.

Were the founders of the Great American Republic to return to their terrestrial abodes, and contemplate the havoc that has been played with their vaunted system of Representation, their pain and resentment would equal that of the good Nazarene, at witnessing the divided house of which he was the architect and the many crimes committed in his name.

To declare that, in the most wealthy and populous cities of the country, not a vestige is left of the spirit which gave the system its birth, is no exaggeration. It has sunk in public estimation to a travesty upon the very term Representative, and if there is a remedy for this condition of affairs, its application cannot be made too soon.

For the last forty years we have gone from bad to worse as naturally and logically we must have done. The best advice, and timely warnings of public-spirited men avail but little when these counsels are met by partisan idolatry.

More than twenty years ago, Henry Ward Beecher described the dangers confronting the people in the following prophetic language:

"Suppose in an emergency the railroad in-

terest demands more legal privileges; suppose there was some great national question which demanded that the President of the United States should be a man and the Senate should be composed of men playing into the hands of the great national railroads' consolidated capitalists, what power is there on the continent that could for a moment resist them? It is not a great many years since it would seem atrocious to have suggested that thought. But Legislatures have been bought and sold until we think no more about it than of selling so many sheep and cattle. Does anybody suppose that if it were a national interest that these vast corporations were seeking to subserve there is any legislation on this continent that could not be crushed or bought out by this despot, compared with which even slavery itself were a small danger? One of the greatest humiliations as a nation that is so justly proud of so many things is that which has fallen upon our Congress. When we see the slimy track of the monster we justly ask: 'What are we coming to?' There has got to be a public sentiment created on this subject or we will be swept away by a common ruin.

"I tell you that the shadow that is already cast upon the land is prodigious. I do not believe in the Sociologist, in the International, nor the Communist; but when I see what the

rich men as classes are doing with our Legislatures, what laws they have passed, what disregard there is to great common interests, I fear that the time will come when the workingmen will rise up and say that they have no appeal to the courts; no appeal to the Legislatures; that they are bought and sold by consolidated capital, and when the time comes unless it brings reformation it will bring revolution. If any such time does come, I do not hesitate to say I will stand by the common people for the encouragement of the working people and against the consolidated capital of the land."

Mr. Beecher's picture was sketched from nature at the time. One painted from scenes of today would require a much larger canvas, for the railroad consolidated capitalists of twenty years ago were infants compared to the giants of our time.

But with the growth of these combinations, which "continue to buy Legislatures as sheep and cattle are bought," has come information, not only to the workingmen, but to all classes; and if there is a revolution in prospect—as Beecher predicted such conditions must foster—it will not be fought with bullets, but ballots.

Under popular institutions, with free speech and an unfettered press, "murder will out." There need be no fear of forcible revolution

as long as the avenues of information are kept open—injunctions and judicial-contempt proceedings notwithstanding. Correct information crystallizes public opinion, and, in time, outweighs all the wealth railroads, steel kings and gigantic corporations can command.

Necessarily, this crystallizing of public sentiment has been of slow growth; but, whenever and wherever an opportunity is given—free from partisan politics—it is made evident with clearness and decision.

The information is spread broadcast that, the representatives of our State and municipal Legislatures, who, from year to year, have grown less representative, have joined hands with the most unscrupulous politicians in formulating plans to place the people of cities under contribution. The exploitation of public utilities by private parties, or corporations, offer the most lucrative opportunities for this purpose, and franchises have become a purchasable commodity. There is not a city of 100,000 inhabitants in this country that has not been thus victimized. It is now universally recognized that, the granting of franchises to private corporations for the exploitation of public utilities by the State or municipal law-making bodies, has proven to be but a legalized system of extortion, and the principal cause of the political degeneration in

cities; that the magnitude of unbridled license with which the representative bodies of our states and municipalities have prostituted their power to legislate, is but the legitimate outcome of these abnormal political and economic conditions.

For corroboration of these assertions the following retrospective glance over the history of street-car legislation during the last forty years, from an editorial of the Chicago Tribune is herewith reproduced:

"The first grant of the sort in Baltimore, for example, made in 1859, was the subject of public scandal, protesting mass-meetings, and a bitter and diversified but fruitless contest which was carried even to the Legislature. Half a dozen years later the Illinois Legislature passed, against public protest and over Governor Oglesby's veto, the ninety-nine year act. In 1884 the Broadway grant was secured by bribing twenty-two out of the twenty-four members of the New York Board of Aldermen with a fund of \$750,000. Some of the culprits were imprisoned; then prosecutions ceased.

"In 1895 the Buffalo City Council passed and the Mayor approved a five-cent fare ordinance for sixty-six miles of new lines in the face of an offer of a three-tickets-for-10-cents rate for the same lines on terms approximately

the same in other respects, and the grant was "fought in the courts" by citizens to no purpose. A year or two later the Ohio Legislature passed the notorious fifty-year extension law for all the Cincinnati street railways. In 1898 and 1899 the Missouri Legislature and the St. Louis City Council fastened upon that city an unregulated five-cent fare street railway monopoly for something like forty years, and the people were so inured to being "sold out" in such matters that they simply remained utterly apathetic.

"In the spring of 1899 the Indiana Legislature and the Indianapolis City Council imposed upon the latter city a thirty-five year street car monopoly against which public protest was raised in vain. In the following December a similar event took place in Milwaukee, except that the defiant—though ineffective—mass-meetings were peculiarly numerous and prolonged. A few months ago the Columbus City Council granted an extension of street railway privileges with a four-cent fare in the face of a reliable offer of three-cent fares, and the subsequent Mayoralty election registered popular resentment which was only as helpless as it was pronounced."

The editorial closes with the following significant remarks:

"Many thoughtful and conservative persons have become thoroughly convinced that the



dangers inherent in the extension of municipal functions are unquestionably less than the evils of corporate grants. Traction companies should know that municipalization of car lines is ceasing to be the popular bogey it has been."

According to the following dispatch, the "apathetic" conduct of the St. Louis electorate has borne its fruit. Had the forty-year franchise, presented to the street car corporations of 1899, been submitted to a popular vote, the city of St. Louis would have spared itself the humiliation of having one-half of its aldermen indicted by the grand jury today.

"Judge Ryan ordered the jury to press the investigation with all its power, and to let no guilty man, however high his financial or social standing escape punishment. Judge Ryan said, in part:

"The work and report of the last grand jury revealed appalling conditions touching bribery of public officials.

"These revelations indicate that men in high positions in the social life and commercial activities of this community have, in their endeavor to secure public franchises for private gain, not hesitated to bribe members of the Municipal Assembly to betray the public interests and welfare they were elected to protect.

"No graver danger exists than this infamous method of robbing the people by corrupt-

ing their trusted representatives. It is a menace to our civic and political life. It is anarchy, for it strikes an insidious and deadly blow at government.

"It substitutes the debauching moneyed power of criminally responsible combinations and corporations, acting through their venal agents or hirelings and unscrupulous public officers, for the lawfully constituted authority vested by the people in the municipal legislative body to be honestly and faithfully administered.

"The higher the position of the persons who bribe, or are bribed, the greater is their moral responsibility, because the more potent for evil is their wicked example, but to all who so offend, be they high or low, powerful or humble, there should be meted out certain, swift, and severe punishment.

"Have a care that none who are innocent shall be branded, but have equal care that none escape being brought to the bar of justice who are, in your best judgment, on the evidence presented, guilty."

After instructing the grand jury as to its duties and privileges, Judge Ryan dismissed it to meet the following day.

## CHAPTER VII.

### GOVERNMENT OF CITIES.

"The old contest for the integrity of the nation," says Samuel Cooper, "is forever settled. The new conflict is for purity in the government of great cities, the municipal units, which so largely control the nation. This is the final work of the century."

If, as Mr. Cooper says, there is a conflict for purity in the government of cities—as is generally admitted—what has caused this impurity? The mere fact that a city contains a hundred thousand or several million inhabitants cannot cause its government to grow corrupt. At first, there have been some special opportunities offered to a comparatively small number of its citizens, with itching palms and easy consciences, to enrich themselves without unnecessary trouble or irksome toil. In the second place, since the common interest, the instinct of self-preservation, and a desire for participation in the government by the inhabitants of large or small communities is necessarily the same, it is plain that if left free they would have crushed any attempt to defraud them, or rob them of these rights

and immunities. Hence, it was deemed expedient by the parties of the first part to devise some method by which the mass of the people might be placed under the tutelage of some extraneous power in the State. City Charters offered the speediest and most plausible opportunity for carrying out the project.

This has since proven to be the principal cause of the impurities in the government of great cities.

At the close of the Eighteenth Century there were only five cities in the country with a population exceeding 10,000; New York, the largest, had but 35,000. The rest consisted of small agricultural communities. The City of Boston was managed under the New England town-meeting system until 1822, when its population had reached the 40,000 figure. Today there are 157 cities, which, in the aggregate, contain nearly 20,000,000 inhabitants.

But even in those early days, the "Hub" was not without some people who were not willing to subserve their private interests to the public good; a governmental system for the city in which all the people had their say, did not offer the opportunities a special charter would for the introduction of selfish schemes. Hence, that mediæval system was suggested by a small but influential minority. The advocates were shrewd business men and lawyers of erudition.

They told the people that the swaddling clothes of the town-meeting was not a befitting garment for a rapidly growing city; that with so large a population their individual participation in public affairs had become too irksome and impracticable, and since the City Council, who would manage their common affairs would be of their own choice the change would be timely, wise and conducive to the public interest.

Among those who were opposed to the change were such patriots and statesmen as John Adams and Josiah Quincy. They warned their fellow citizens of the dangers to their liberties by the abandonment of a system of self-government bequeathed to them by their fathers. A special charter, they said, may have its material advantages, but its adoption would involve the surrender of a great principle. Their sound advice was disregarded, however, and the advocates of a special charter carried the day. Boston's special-charter history is that of all the other cities in the land.

The people had had no experience to guide their steps; the special charter, a relic of the middle ages, was brought over from England, where the sovereign was the grantor of all special privileges, but in a Republic, where the people are supposed to wield the sovereignty, the system is out of place. The very term

grantor is obnoxious to the democratic ear; it conveys the idea of a grant by a sovereign to a subject; practically, it places the grantee under the control of the grantors, a relationship irreconcilable with the spirit of democratic institutions; it robs the inhabitants of cities of the privileges and rights enjoyed by their fellow-citizens of the rural districts and towns, and, lastly, by the very nature of its special creation, a city charter breeds mischief and corruption.

For a State Legislature to deliver the inhabitants of a municipality to the mercy of corporated freebooters for an indefinite term, under the flimsy pretext that they have become too numerous to manage their local affairs, under the primitive methods of the town-meetings, is not less arbitrary and tyrannical because it is done under the form of law. It is purely legalized spoliation. It is a veritable fact that the inhabitants of American cities, cursed with legislative charters, are less free and more exposed to individual and corporate rapacity than those of the European cities situated in the midst of despotic, military governments. It is of historic record that self-government of cities in continental Europe was the rule from most ancient times. During Rome's supremacy the large cities of Germany were all locally governed and perfectly inde-

pendent of kings or princes; did not pay tribute or taxes, nor did they furnish military contingents for the wars waged by their countries against the Romans. Subsequently they became the Reich-Stadt (Cities of the Realm), and, although acknowledging the Emperor's sovereignty, always retained the principle of self-government in local affairs. It is, therefore, to this long experience in home-rule that the present exemplary administration of the large cities in many parts of Europe is to be attributed. The officials in charge of the various departments have always been experts or men of scientific attainments in their respective callings. The city councils are chosen from a class of men, noted and esteemed for their purity of character and superior intelligence; they are generally men of leisure, retired from an active career in some business, industry or profession, who feel honored by the trust reposed in them by their fellow citizens, and serve without compensation. Moreover, when important public measures are to be taken, or great improvements contemplated, requiring large expenditures, the whole electorate is generally consulted.

It must be admitted, that, owing to dissimilarity of social and political conditions, comparisons can not properly, nor justly, be made; nevertheless, it would seem that in other re-

spects the American cities ought to possess great advantages over those of monarchical Europe. Since it has been possible for the people of the latter, under aristocratic institutions, to establish and maintain local self-government, it is obvious that its establishment in the cities of republican America, should be a simple matter of course.

Objectors to popular home-rule of the people in our American cities speak disparagingly of the large number of foreigners among the citizens, of a heterogeneous population; aliens, etc. These objections, however, are generally modified in accordance with the political bias of the objector. If the foreigner most frequently votes his ticket, the foreigner is a desirable acquisition to the body politic; if not, he is unfit, or rather, "unripe" for self-government, no matter though he be as well qualified, as honest and as public spirited as the objector himself.

It is true that all populous centers of the United States, to a large degree, are composed of a heterogeneous population, with divers national characteristics, of opposite customs and habits, of different degrees of intelligence and education. It must be remembered, however, that these various elements are generally found to dwell together in particular localities. The use of the same language and their material



condition may be the best reason for these nationalistic settlements. Without wishing to draw invidious comparisons, it may be said, the moral and intellectual standard varies in all these different sections; in some the standard is much higher than in others. But it would be absurd to accept as a standard for the whole city, any one, or even a number of these subdivisions. There is ample proof, however, to show that the moral and intellectual average of Chicago's, New York's, or Boston's population is as good, and their information probably better than that of a similar number of people residing in the rural districts, and it is the failure of the average reformer to recognize and appreciate this fact that has created in his mind an imaginary problem of governing large cities.

He inveighs against these inhabitants as being less intelligent, less law-abiding, less thrifty; consequently less competent for self-government than the inhabitants of country districts, without a plausible argument or a proof in support of this singular hallucination.

But since indolent and disreputable characters do congregate in large cities, this fact is seized upon as of sufficient reason to declare the overwhelming majority of reputable, law-abiding citizens, unripe for self-government, incapable to manage the common affairs of a public

corporation of which they are the only interested and responsible stockholders. This confusion of ideas, which prevails in the mind of the average reformer, is exemplified in an address on the subject of corruption in large cities, delivered by a former Comptroller of Greater New York, to the students of the Illinois University:

"The great civic and political problems of this country today," he says, "were born of the social conditions that exist in the cities, and there the fight for more intelligence and a higher standard of public honesty must be fought and won. No serious danger to American institutions lurks anywhere in the broad and fertile prairies of Illinois or the West, where patriotism is universal and honesty the inherent birthright of every citizen.

"But in the great cities of the East and West, with their *teeming, struggling, restless thousands, who, tasting liberty for the first time, are prone to mistake it for the intoxicating license of unreasonable freedom*, there are problems that require for their just settlement the wisdom and patience of the best citizenship."

The Comptroller evidently overlooked the fact that the incentives offered to individual rapacity and corporate greed, such as street cars, gas and electricity, and many other public utilities, are not to be found on the "broad

and fertile prairies of Illinois or in the West." and that there are no inducements for corrupt politicians in the rural districts to organize rings and create political "bosses"; hence, it is natural that "patriotism is universal and honesty the inherent birthright of every citizen"—whatever that means. Having thus fixed the responsibility of corruption in large cities upon the teeming, struggling, restless thousands, who, tasting liberty for the first time, etc., etc., he proceeds in the next breath to accuse the "prominent" and "respectable" of neglect of their civic duties.

"Corruption in state and municipal government," he says, "has too long been accepted in this country as a matter of course. There has been a growing tendency among men who were otherwise good citizens to shirk public duties. They wanted to keep out of politics and public life, but in keeping out they made room in both places for men who ought to be in jail.

"Political machines, so-called, have been created in states and cities; the franchises and public utilities that were the property of the people have been made the circulating medium between dishonest politicians and unscrupulous corporations. In the large cities of the country the people have been in the habit of submitting to bad government until it got beyond

the stage of endurance, when they would rise up in their might and put the other party in power, and then go about their private affairs believing, perhaps, that they had done all that good citizens could do."

"Create in any state of municipality the impression that a political pull will pass a bill or pave the way for a payment of an unjust claim, and the seeds of political dishonesty have been planted deep in fruitful soil, where they will sooner or later bring forth a harvest of corruption. Already the impression is widespread that the rules of honesty deemed necessary in private business life need not apply to the public service. Too many politicians hold that it is legitimate fruit of partisan victory to make money out of the public treasury.

"When the cohesive power of corruption has made political influences strong enough to defy public opinion they will oppress the business interests they cannot blackmail, and representative government is then in danger.

"The old system of stealing from the public treasury has passed away, and the safer and more profitable plan of bartering political influence for cash or stock in corporations has succeeded. But while the politicians have been improving their methods, the people have been learning some valuable lessons. The old method of trying to reform bad government

by turning out one set of politicians and putting in another set is no longer popular. The people are beginning to understand that the government under which they live, in city or state, is going to be all the time pretty much what they make it. If good citizens neglect their civic duties the politicians will take the offices and everything else that is not chained down.

"Bad political government may be tolerated for a time, but corrupt politics and corporate greed in combination call for prompt measures for the protection of the rights of the people."

There is much truth, but some that is fallacious in the above.

There is not the least doubt, for instance, that "corruption in state and municipal government has too long been accepted in this country as a matter of course;" but it is incorrect to state that there has been a growing tendency among men, who were otherwise good citizens, to shirk public duties. There has been a growing disgust on the part of the best citizens, with the political methods now employed, and having neither the time nor the inclination to organize and fight year after year, the well-organized forces of the political bosses, they are practically debarred from the performance of their public duties; and if "a class of men have taken their places who ought to be in jail," it

is not due to these disfranchised citizens but to a wealthy class of men, who were successful in managing the bosses.

"Bad political government," the Comptroller says, "may be tolerated for a time, but corrupt politics and corporate greed combined, call for prompt measures for the protection of the rights of the people." Unquestionably so. But what are the measures? Is it less democracy and more government by state commissioners, or, is it more democracy, that is to say, shall all the people be given a chance?

If it were true, as the New York Comptroller says, that, "The great civic and political problems of this country to-day were born of the social conditions that exist in the cities, with their teeming, struggling, restless thousands, who, tasting liberty for the first time, are prone to mistake it for intoxicating license of unreasonable freedom," then, in that case, we want less democracy. But it is not true; that is to say, the great civic and political problems of this country have not been produced by the foreign born, whom the Comptroller by circumlocution is pleased to style, "the teeming, struggling, restless thousands," but by the greedy, unscrupulous and wealthy manipulators to the manor born; hence, we evidently want more democracy, not in the party, but in the ethical sense. Let us see whether this position may not be maintained.

The statement that political machines have been created in states and cities is a truism, and it is, also, notoriously true "that the franchises and public utilities that were the property of the people, have been made the circulating medium of dishonest politicians and unscrupulous corporations." Will it be maintained that those who have created the political machines, or the officers and stockholders of unscrupulous corporations, were drawn from the mass of struggling foreigners, "who have tasted liberty for the last time," half of whom imperfectly speak or understand the English language? If not, who were they? Is it not plain that, as a rule, they belonged to the class of men described in a former chapter, as having amassed individual fortunes during and at the close of our civil war, who appeared on the political horizon and startled the country by rumors of corruption and peculation in high official places; when, for the first time in the country's history, political organizations, under the control of rings and bosses, for mercenary ends, came to the knowledge of the people?

This placing of the responsibility for the prevalence of scandalous political conditions in our large cities, upon the shoulders of the so-called "aliens" is a most serious matter. Every foreign-born citizen feels the sting, and the slur

can best be resented by placing that responsibility where it fairly belongs, not only as a matter of vindication, but as one of sound policy. Were this moral indictment against the mass of foreign-born sustained by facts the frivolous charge that they are not ripe for local self-government might not successfully be disproved and might continue to be used as a stock argument and plausible pretext to deprive large cities altogether of that inherent popular right, but the road to a healthy and effective solution of the so-called problem of the government of large cities, is rendered less difficult, since it can be undisputably established, with dates and names if necessary, that it is some of the prominent home-spun citizens moved by an avaricious and grasping propensity, who have debauched public life by inducing the disreputable and vile, native and foreign born to seize upon the political field and make boodleism a lucrative profession.

Now, since the Comptroller of New York talks so flippantly of his fellow-citizens, who "are tasting liberty for the first time," let us see what a journal of influence and reputation, published in his own bailiwick, says about it. In an editorial, commenting on this subject, the New York "Nation," in its number of March 26, 1896, writes as follows:

"Now to which of these evils has the foreign



immigration contributed? The matter on which the influence of the foreign immigrant has been most potent is city government. The government of New York has been undeniably foreign and we admit shockingly bad. But, alas! the government of other cities, Philadelphia for example, which is in native hands, is just as bad, and some say worse. So is that of St. Louis, Chicago, and Cincinnati. In all these cities the chief leaders in the work of corruption have been Americans by birth, and as a general rule, it is Americans who have taught the foreigners the tricks of the trade. As to foreign illiteracy, we affirm it has not done us a hundredth part of the mischief wrought by native literacy. At no period in the history of the country has so much damage been done to our government as within the last year by the Congress which we have been in the habit of calling "British." They have exhibited ignorance and folly in about equal proportions—ignorance about everything with which it behooves legislators to be acquainted, trade, commerce, finance, currency, foreign relations—and yet every member of them knew how to write and read with different degrees of proficiency, it is true, but all fairly well. Some had even read books and dictionaries, so it is quite plain that making foreigners read and write at their port of entry would not neces-

sarily make them more desirable additions to our voting population or to our halls of Legislation. Take again the "Boss" system, which is so rapidly changing the character of our state government. Who devised it? Why, the native born of New York and Pennsylvania.

Does any one doubt for one moment that, if the ruling passion in Washington and Albany to-day was a sincere desire to do what was best for the country, what was most likely to promote the comfort of the poor, and the safety, honor and welfare of the Nation, as these terms were understood by the founders, the existence among us of five times as many illiterate foreigners as we now have could be witnessed without concern?"

Now, let us see what a former Governor of New York, the man who brought about the fall of "Boss" Tweed, the Hon. Samuel J. Tilden, had to say about the management of the city of New York by State Commissioners appointed by partisan Governors. In a speech in opposition to the bill creating a Board of Charities for that city in 1876, he said:

"Nearly all the evils of misgovernment in our city, for the last twenty-five years, have been inflicted by just such legislation as is proposed in this bill. Abuses or wrongs of local administration sometimes spring from defects

in the governmental system, and sometimes from the frailties of human society. The new expedient, even if intended in good faith as a reform, may be prolific of still greater evils than those calling for a remedy. But the mischief which always results from the violation of established principles of responsible government, as evolved through centuries of experience, can not be estimated.

"A still greater danger results from the fact that the occasions for such changes are the opportunities for the worst designs of selfish cliques, factions and partisans. As early as 1856 the non-partisan Board of Supervisors of the County of New York was instituted. It was a monstrosity in governmental experience. It was, practically, irresponsible; it every year absorbed new powers, until at last the frauds and crimes were generated which have become notorious in her public history.

## CHAPTER VIII.

### PROPOSED REMEDIES.

#### *The Primary System.*

The remedies proposed are of the most varied kind. Some of the reformers scold the people for failing to fulfill their civic duties; that is, to take part in the primary elections. But suppose the obstructions for the fulfillment of these duties are so formidable as to actually prevent the citizen from effectively performing them? It is a notorious fact, for instance, that under the prevailing condition of partisan politics, the "bosses" are absolute masters of the situation; they have an army of retainers, scattered throughout the wards and precincts of the city, as unscrupulous as they are themselves, under well instructed captains and lieutenants, thereby enabling them to dictate the nomination of candidates and control the primary machinery—law or no law—so effectively as to render independent voting nugatory.

To illustrate. For more than a quarter of a century the citizens of the metropolis of the West had been compelled to submit to the indignity of "dumb figure heads" at the pri-

mary elections of both the great parties. At every election they were made conscious of the fact that, the list of delegates to the nominating convention had been selected beforehand by a small coterie of ward politicians under the control of the "bosses." Consequently, all that remained for the unorganized voters was the task of depositing said list of delegates in the ballot box, handed to them by some "worker;" or, if perchance there was an 'opposition ticket in the field, invariably to learn, after the polls had been closed, that the "regular ticket" had been elected; that is, counted in. At last, disgusted at thus being periodically forced to go through such farcical performances, the citizen ceased to take part in the primaries, and for many years the "Bosses" had the entire political field to themselves.

Hoping to put an end to these scandalous proceedings and "resume the duties of citizenship," by legalizing the primaries, a number of public spirited citizens prepared a bill with that end in view; had it introduced in the General Assembly with many misgivings as to the result. It passed both houses, however, though championed with sarcastic smiles by the knowing members of both political machines.

On the side of its advocates there was great rejoicing at the unexpected result; the "go as you please" primaries were now a thing of the

past—it was said; while the legitimate party organizations would be maintained, the committees would henceforth cease to act the role of political masters, and would be confined to the simple task of calling party conventions and providing ways and means for campaign purposes, etc., leaving the people free to select delegates and candidates according to their own will and judgment.

How honestly and earnestly, and with what result that law was carried into effect was demonstrated but a few months after its passage. It was in June, 1898, when the law was put in operation by one of the two parties—which happened to be the Republican. On the evening before the nominating convention the four principal bosses having received the satisfactory news that their workers in the wards had executed the program of selecting delegates instructed to vote for such and such candidates, they at once prepared the list of the favored ones.

This little arrangement was described in the next morning issue of the *Chicago Tribune*, under the headline:

#### HARMONIZE IN ADVANCE.

“The established custom of holding a long caucus on the night before the county convention was broken yesterday. The four bosses, with a few lesser lights, concluded they could

avoid a lot of trouble by arranging the program quietly in advance, and so it was an easy matter yesterday to agree on the foregoing ticket."

In corroboration of the *Tribune's* statement, the *Times-Herald* had this to say concerning the packed convention about to convene:

"The old organization or machine will have, on the face of returns from the primaries, about 1,000 votes out of the total of 1,116 with which to put the slate through."

The Chicago *Record* recorded the following:

"Republicans will hold their county convention in the First Regiment Armory to-day. The four principal 'bosses' are the complete masters of the situation as a result of yesterday's primaries.

"The slate was not completed by the bosses, but they have agreed to meet at 8 o'clock this morning to arrange the vacancies, so the prospect of an acclamation convention confronts the 115 delegates who will participate."

The *Chronicle* in an editorial said:

"THE PRIMARIES AND THE GANG.

"Although the new primary act was passed for the sole object of defeating machine methods in politics—to destroy the cut and dried system of nominations—the fact appears to be that it is already a predestined failure, as far as the Republican party is concerned. The Re-

publican primaries are to be held to-day in all parts of the city of Chicago and in the country towns of Cook County.

"But the machine is in as full control as it ever was when brace primaries constituted the rule and honest nominations were the exception. The 'slate' of candidates is already prefigured as accurately as though the nominations already had been made."

As was prognosticated by the unanimous statement of the Chicago press, the slate of candidates, "already prefigured," was rushed through the nominating convention without a hitch, and in much less time than any nomination ever made under the old "free and easy" primary system.

But the most recent and most striking illustration of this primary election delusion, one that aroused public indignation as it never had been before, and stirred the best portion of the public press to most scathing denunciations, were the primary elections held by the Republican party on the 1st of March, 1901, for the election of delegates to the city convention to nominate candidates for Mayor, Treasurer, Attorney and Clerk.

It had been said that the bosses had promised to keep their hands "off"; that it was to be a contest free for all. Whether it was a childish belief in the "bosses' " declaration, or in obe-



dience to a preconcerted plan to deceive the Republican electorate, must be left to conjecture, but something like a half a dozen candidates, all of them reputable gentlemen, entered the race for the mayoralty.

It would appear that the Republican press had full faith in the assumed neutrality of their party machine; exhorted the voters to take advantage of these free for all primaries and perform their civic duties by attending them, not only to secure their choice for Mayor but to make worthy nominations for Aldermen. On the 27th of February, two days before the primaries, an editorial appeared in the *Chicago Tribune*, in which an earnest appeal was made to the voters of both parties to attend the primaries. "The appalling inundation of gangsters," it said, "renders the situation alarming.

"Every well-meaning citizen knows to what extent he has already co-operated toward this end; and if any one is idle from not knowing precisely what to do, he may receive valuable suggestions from the Municipal Voters' League, whose thorough and detailed inquiries enable its officers to give precise and reliable counsel respecting the line of most available action in each ward.

"With a few exceptions the entire electorate of the city is entitled to a part in either the

Republican or Democratic primaries. It is the duty of honest voters to 'go to the primaries' and insure worthy nominations. And more than that. It is their duty also not to be idle during the few intervening days."

And this from the *Record*:

"There is one way, and only one, by which municipal administration of Chicago can be reformed and brought up to the standard of efficiency, honesty and intelligence upon which private business is conducted, and that is by the citizens taking an individual interest in politics and doing their duty at the primaries.

"Unfortunately Illinois' present primary law is not adapted to as full and free participation of the electors in the primaries as it should be, and it is to be hoped these defects will be cured during the present session of the Legislature."

Here is what the *Tribune* had to say the day after the primaries:

"MACHINE STILL IN THE SADDLE.

"The total number of delegates will be 940, requiring 471 to nominate, and neither has any candidate a majority nor are there enough unpledged votes to control. Almost all of the unpledged delegates are the personal property of the 'machine' and can be depended on to go as the chief boss directs."

This fearless arraignment of the "chief boss"

by the principal organ of his own political party and of the personal property of the "machine" was, from report, received with hearty approval by nine-tenths of the Republican voters.

The Chicago *Record's* comments were as follows:

"The proceedings in Saturday's Republican convention, where, after a mere pretense of responding to the wishes of the voters, the bosses' delegates were whipped into line in accordance with the prearranged programme of the boss in charge, afford their own instructive lessons as to the futility of undertaking to secure honestly representative nominations under the present primary system and the dictation of party bosses. Under such a primary law as that in force in Minneapolis, where voters nominate party candidates when they register, and their ballots have a binding effect, it is possible to ascertain the wishes of the members of a party, and impossible for bosses to defeat those wishes.

"*The pitiful inadequacy of the prevailing system* is shown by the fact that in a city which has more than 400,000 registered voters the entire Republican primary vote cast last Friday was only about 47,000.

"The convention of Saturday was a farce, so far as it purported to be a convention giving

effect to the wishes of the primary voters. It was run by one man to meet one man's own personal and political interests. There could have been no plainer demonstration of the necessity of adopting such a primary system as shall make it impossible for the bosses to thwart the voters' will.

As the *Record* pertinently remarks, "The pitiful inadequacy of the prevailing primary system is shown by the fact that, in a city which has more than 400,000 registered voters, the entire Republican primary vote cast last Friday was only about 47,000."

It is to be supposed that the optimistic gentlemen of the press and of civic associations who pinned their faith in the prevailing primary system as a specific against political bosses may have now been cured of their hallucination. The small percentage of the Republican voters who took part in the primaries—they were wiser than their advisers—showed they saw the spider in the web and refused the invitation to enter. Whether their advisers will profit by this experience remains to be seen.

## CHAPTER IX.

### FORWARD STEPS.

Notwithstanding the demoralized condition of politics in many of the larger American cities, signs of popular revivals are to be seen in many parts of the United States.

Thus, in the state of Iowa, twenty-five property owners in a city may command the Mayor to submit the question of municipal ownership of waterworks, gas works, electric lights, power plants, the granting of franchises for the same, or telephone systems, to a vote of the people. No power plant for water, gas or electricity can be erected, franchise granted or sold for telegraph, telephone, or street railways without a popular vote thereon.

In South Dakota, the Municipal Referendum has been introduced through a constitutional amendment, and with most admirable results. Its very existence on the statutes has prevented hasty or venal legislation.

In Missouri, Minnesota, California and the State of Washington the larger cities are allowed to frame their own charters, and, therefore, will be able to embody the Referendum, so essential to the good government of these cities.

In Massachusetts, the timely veto of a conscientious Governor defeated a traction scheme, hatched by the Legislature in conjunction with a greedy corporation.

In 1895, the construction of a subway for rapid transit was begun by the municipality of Boston, which, to the discomfiture of the opponents of municipal ownership, proved such a success that early in 1900 a second subway was suggested, though not until a year later did the subject take tangible form.

A Legislative Committee, in charge of the matter, in disregard of the protest of the people of Boston, reported a bill by which the Boston Transit Commission was to construct the new subway, to be paid for by the Elevated Railway Company, at a cost not to exceed \$6,000,000, in consideration of a forty years' lease, without payment of rent. This bill passed both houses with large majorities.

In vetoing this bill the Governor says:

"There is no assurance that the subway can be constructed for \$6,000,000. If, as is very likely to be the case, the cost is in excess of that sum, such excess must be paid by the city, without reimbursement from any source. To the extent of such excess of cost, the subway will be constructed at the expense of the city for the benefit of the proposed lessee.

"Previous Legislatures *have referred to the*

*city of Boston, for its acceptance or rejection, acts relating to rapid transit. And the results of the ballots so taken show that the voters have acted intelligently, and with a full understanding of the issues involved.* \* \* \* I see no good reason why these precedents should not be followed in a bill so important and far-reaching in its consequences to the citizens of Boston as is the one before me.

"The bill is objectionable for the further reason that it is in violation of the spirit of the statutes designed to prevent stock-watering, laws whose wisdom have been so far confirmed by experience that all attempts to modify or repeal them have failed. The essence of stock-watering is, I take it to be, the issuance of stock not based upon actual property of the corporation. This bill provides that the money to be paid to the city of Boston may be provided for by issuing stock; but no provision is made for the redemption or cancellation of the stock at the end of the term. The money so paid is, in fact, expended, not for permanent improvements, but for rentals, and does not increase the value of the plant of the company. At the end of forty years the stock is free, and will be held by the company without property to show for it.

"No one can foresee what advance may be made in the methods and cost of transporta-

tion, in the volume of travel, or in the facilities that may be required for its accommodation in the next forty years. The history of passenger transportation during the last forty years, and the wonderful advance that has been made, not only in the amount of travel, but in the facilities afforded to passengers, is sufficient evidence of our inability to predict the future. This bill, however, while it does not restrict the company, ties the hands of the community. It will prevent the public from taking advantage of any such improvements in transportation facilities on the proposed route, excepting those that may be deemed by the company advantageous to it. A consideration of the disastrous results which would have followed if exclusive rights had been granted to a street railway company forty years ago to continue until the present time, illustrates the limitations which this bill would impose upon the public, and the unwisdom of its enactment.

"But there is a still more serious objection to the bill. It involves a surrender of public rights for an unusual term of years, and under unusual conditions. No street railway, with the exception of certain privileges heretofore assured to the West End Street Railway Company and the Boston Elevated Railway Company for special reasons, has other than a revocable franchise in a public way.



"But this bill will, if it becomes a law, give to a private corporation a valuable monopoly in a great public thoroughfare and will perpetuate that monopoly for forty years. It not only binds this generation; it ties the hands of the generation to come. The surrender of rights which belong to the public, even for a brief term of years, should be permitted only after the most careful consideration, and for controlling reasons of public policy; but no exigency has been shown to exist to justify the taking away of such rights from a generation yet unborn.

"No reason affecting the public welfare requires the adoption of this extraordinary proposition. The rapid transit of passengers by means of a subway is no longer an experiment. There can be no reasonable doubt that if such a structure be built and paid for by the city it can be leased to a transportation company for a sum amply sufficient to take care of the interest on the money borrowed therefor, and to provide a sinking fund for its ultimate redemption.

"All the special rights and privileges enjoyed by the Boston Elevated Railway Company will have expired in the year 1922. It has no moral or equitable claim to a continuance of those privileges, or of any exclusive privileges whatever. There is no good reason why the

public should not at that time come into complete possession of its own, to the end that further franchises may then be granted in view of improvements in the methods of rapid transit which may then have been made, with the sole object of securing, in the highest degree and at the lowest cost, convenience of the people of that day. *But this bill, if approved, would go far toward assuring a continuance of the command of the situation for a period of twenty years or more. Although its rights in the existing subway will have ended, it is not difficult to foresee that a company in exclusive possession for a long term of years of the most important avenue of travel, will be in a position to control the situation and to prevent other transportation companies from competing upon equal terms. No such opportunity for control of the situation at that time should be permitted.*

"I am unable to give my assent to a bill which thus restricts the rights of the public, while, on the other hand, it insures valuable exclusive privileges to the company in question for so long a period; and that, too, without any public exigency requiring the passage of so extraordinary a measure."

The coincident arguments of the Governor of Massachusetts upon a precisely similar issue, with those contained in the recent mes-

sage of the Mayor to the city council of Chicago, is most significant. But, what is more encouraging is the total absence of even the shadow of partisan consideration, since the Governor is a Republican in national politics, while the Mayor is a Democrat. Thus, with the former Democratic Governor of Illinois and the present Republican Speaker of the Illinois House of Representatives, these men form the pioneer quartet in the present period of political reawakenings.

In Illinois, the constitution requires the submission to a popular vote of numerous subjects. The so-called "General Incorporation Act," for the incorporation of cities and villages, adopted in 1872, specifically provides:

"That, upon the petition of one-eighth of the legal voters of such municipality, the question as to whether they shall become incorporated under that act, must be submitted to a popular vote."

It also further provides that, upon the petition of one-eighth of the qualified voters, the question of minority representation in the city council shall be similarly submitted. The act, also, provides that after the adoption of the yearly appropriation bill by the city council, no further appropriation shall be made, unless the proposition to make such additional appropriation has been first sanctioned by a majority

of the voters, and, no annexation of one incorporated city or town to another has binding force, until submitted to the voters of such city, village or town. In May, 1901, the State Legislature adopted a law which, to the political novice, has the appearance of the right to employ the Initiative. It reads as follows:

"An act for the expression of opinion by electors on questions of public policy," in which it is provided that, "On a written petition signed by twenty-five per cent of the registered voters of any city, it shall be the duty of the proper election officers, in each case, to submit any question of public policy so petitioned for to the electors," etc., etc.

Could representative presumption be more strikingly illustrated? Let us suppose the popular vote upon any question was practically unanimous. What would prevent the Legislature from casting the returns of the election officers into the waste-basket? 'Tis true, the right of the people to *instruct* their representatives, contained in the State constitutions of 1818 and 1848, has been eliminated by the framers of the present constitution, substituting for instruct, "The people have the right to *make known* their opinions to their representatives"; yet, the preposterous idea, on the part of the agents of the people, to prescribe a method, and place the enormous number of pe-

tioners at twenty-five per cent in cities, in order to exercise that right, shows, conclusively, these representatives have lost all consciousness of the true relationship existing between themselves and their sovereign masters.

As against State legislative buncombe, the chief city of Illinois, with its half million voters, and a conscientious Mayor in the lead, have entered the field to battle for the Referendum and municipal ownership of public utilities.

Most of Chicago's traction franchises expire in 1903, and the easiest way to obtain extensions is the absorbing question of the moment to the companies. Having obtained a twenty-years' lease eighteen years ago, through liberal promises, which, as the rarest patron can bear witness, have never been kept, the simplest and cheapest method would seem to be a repetition of the old tactics.

Some people, no doubt with the best intentions, becoming tired of the delays and indecent means of transportation furnished, have allowed themselves to be goaded into submission to the shrewdly conceived plan "for immediate settlement" of the traction question.

In this dangerous emergency the Mayor of the city, Carter Harrison, who seems to have reached the mathematical solution that, *all* the people of a community—the prominent citizen

included—have more at stake, have better judgment, and more perspicacity, than a fraction, has fired a special message at the ward representatives, bristling with facts, logical deductions, and evidencing the staunchest determination to stand by his guns, which well aimed shot has alarmed the schemers, and brought the unreflecting boomers “for immediate settlement” to their better second thought.

This unanswerable document should be in the hands of every voter in the land as an elementary lesson in home rule. Since his remarks on the subject of my text are so concise and pertinent, I cannot refrain from quoting his closing sentences upon the Referendum:

“This brings me to the last essential, as I take it, in settling the traction question. This is the requirement that before an ordinance shall become operative its terms must first be submitted to a popular vote and receive the sanction and indorsement of the people.

“Personally, I believe in the Referendum because through its instrumentality corruption and the motives for corruption will largely be minimized, if not eradicated from our municipal governments.

“When popular indorsement for a measure is necessary to make it operative, the wishes of the people will naturally be consulted more and more; as the terms must be satisfactory to

the people to secure their indorsement, there will be less for the corrupt official to give and less for the corrupting corporation to buy.

"The influences public service corporations exerted upon officials of the past are too well known to demand any amplification. Anything tending to uproot this evil from the body politic is deserving of popular support.

"It cannot be denied that a reasonable Referendum law would do more to encourage fair dealing on the part of the corporations, to remove temptations from officials, and insure good legislation for the people than almost any agency that can be suggested.

"The passage of an ordinance by its very terms inoperative until its provisions shall have been submitted to a direct vote of the people, the real grantors of its privileges, and shall have received the unmistakable stamp of their active sanction and approval will give your honorable body the satisfactory assurance of your actions meeting with the approval of the people you have been chosen to represent. Moreover, such a provision will eliminate the danger of your being led into hasty action by real or fancied misrepresentations of the people's true wishes and demands.

"The terms of an ordinance of this character could be submitted to a popular vote in the general election of November of this year.

If the action taken be such as to commend itself to popular judgment this whole vexatious question would then be settled upon lines satisfactory to all concerned at a very early date."

In this approaching contest, the principal question involved is not so much the feasibility or practicability of either course, as the right of the people to finally decide. Fortunately for the city of Chicago, the city council is composed of a body of men enjoying, in a high degree, the confidence of the public, and there is no reason to suppose, after mature study and deliberation, they will refuse to concede to the people their inalienable rights in the premises.

And why not? What is this request that the people of cities and villages be permitted to enjoy the use of the Referendum? It is nothing new, nothing startling or perplexing. It is merely giving them an opportunity to exercise a prior and indefeasible right in expressing their consent, or dissent, to legislation affecting their interests and welfare; to exercise this right through an intelligible method, already in force in most of the States, not in a few specified instances, at the pleasure of their representatives, as a concession, but, as a right, whenever, in the good judgment of a worthy number of the citizens, an improvement is sought, or an evil to be abolished.

Nor is there any foreignism in the proposi-



tion, but simply a step forward in the peaceful development of the Plymouth Rock theory of home-rule—a movement in perfect harmony with the spirit of America's free institutions.

Moreover, the demand to permit the people of municipalities, large or small, to assume the rights enjoyed by citizens inhabiting the rural districts, is not made with any intention of changing our system of laws, or to introduce a political novelty; nor is it proposed to alter existing forms, or, that the people intend to take charge of the duties assigned by the constitution to their representatives.

What is asked, however, is that a check against vicious and extravagant legislation be placed in the hands of the people, in order that the principle of home-rule may receive a broader and more general application, through some definite legal enactment.

It has been very pointedly said, "There is nothing in this demand for the Referendum in the nature of a concession; the question of right is not involved, for that is inherent and inalienable, and the withholding of this right on the part of the representatives—their servants—is therefore indefensible, upon moral, religious, or any other ground."

## CHAPTER X.

### EVIDENCES OF CIVIC MATURITY OF THE PEOPLE OF CITIES.

By way of illustrations, it is now proposed to show that the people of cities and villages are not only wise enough but sufficiently well informed to take care of their own local affairs; that, in emergencies, they have always proven to be superior to their representatives, both in intelligence and public spirit. The following instance, in confirmation, was furnished by the people of Chicago over thirty years ago, through a movement for the betterment of political conditions, created by their unfaithful representatives. Their children, today, are in the enjoyment of the benefits won in that memorable contest.

For years the people of Chicago had been swindled by some of the people enjoying special privileges under the State constitution of 1848, which constitution permitted the General Assembly to deal out favors to such as were willing to pay for them. Private parties and corporations were constantly besieging the State House, at Springfield, during the sixties, with bills for special charters and many other kinds

of special privileges, generally originating in and applicable to Chicago. In that city the fees of public officers, through the same method, had been gradually increased, until the incumbents were able to realize comfortable fortunes during a single term of office. These official steals and the notorious abuse of legislative power created among all classes a demand for a radical change. The change could not be effected, however, except through a revision of the old State constitution, or the enactment of a new one. The press of Chicago, with two exceptions, without regard to political predilections, sided with the people. This democratic sentiment, taking practical form among the citizens of the different wards, culminated in a "People's Party." "No more special legislation! No fees, but fixed salaries for public officers!" were the watchwords of this civic uprising. As a result, an independent ticket placed in the field in 1869 was elected by a large majority. The most significant feature of this civic uprising was the fact that it originated in the so-called alien wards, a German-American paper taking the lead.

The State constitution of 1870, born of that popular movement, prohibits the enactment by the Legislature of private bills in seventy-five specified cases; as, for instance, the "Granting to any corporation, association or individual

any special or exclusive privilege, immunity, or franchise whatever." "The granting to any corporation, association or individual the right to lay down railroad tracks, or amending existing charters for such purpose." "The creating, increasing or decreasing fees, percentage or allowances of public officers during the term for which said officers are elected or appointed."

But of all the beneficent features of the new constitution that which prohibits the State Legislature from "Incorporating cities, towns or villages, amending, or changing the charter of any city or village," stands at the head of the list, since, by implication, all matters of local interest only are placed in the hands of the people of these municipalities and their self-constituted authorities.

That political upheaval, by which the representatives were shorn of the privilege to dispose of the people's property in cities, at their sweet will—generally out of sheer stupidity or, to the highest bidder for cash, further demonstrated the fact that the people of cities are not only wiser and more public spirited than their representatives, but, in many other respects, more trustworthy; but, what has been most glaringly demonstrated, is the fact that, it is the height of folly for any people to entrust representatives, their mere agents, with unchecked and uncontrolled power.

But if this evidence of wise discrimination furnished by the people of the city of Chicago thirty-one years ago, has passed from the memory of the present generation, a further proof to the same effect was furnished by the people of Chicago five years ago, when they were called upon to decide, at the ballot box, the fate of the two most important laws, the Civil Service Act and the so-called Torrens Law.

After the great fire, when almost all the real estate records of titles and transfers stored in the county building were destroyed, the people of Chicago were subjected to the most outrageous extortions by the abstract companies who had secured the private records kept by some of the real estate brokers. There were no limits to the charges for an abstract; one hundred to two hundred dollars for small holdings was not among the rarities. Finally some public spirited citizens of the Real Estate Board began to interest themselves in a system of land titles, which, under the name of Torrens, had been in operation in a number of States in Germany, for the last hundred years, and in the city of Hamburg as remotely as six hundred years. These citizens formulated the system into law in 1891, transmitting it to the governor, who appointed a commission to investigate the subject. This law was submitted to the State Legislature by the commissioners,

with their approval, and was adopted by the Senate, but failed to pass in the lower house.

Was it downright stupidity on the part of the lawmakers, who were supposed to have reached civic maturity, or had they been "seen" by the abstract firms that they thus disregarded their duties? The fact is, this beneficent measure was shelved, and the robberies of the abstract firms went merrily on, until at the next following session of the Legislature—two years later—the bill was again submitted; this time with success, and with the proviso that, *The law be submitted to a popular vote of the counties for adoption or rejection*—in other words, a resort to the Referendum.

This law, which an ignorant or venal House of Representatives refused to pass, was approved by the discriminating electorate of the city of Chicago, with the enormous majority of 77,838 votes. One of the commissioners, after demonstrating the benefits of the Torrens system, says:

"It has secured the chief advantages of the old system of recording the deeds, of which notice is the most important principle, and has operated so as to almost entirely dispense with investigations of prior title."

This law was voted down by a House of Representatives, but sustained by a vote of the people. Who will say that the former are "ripe" and the latter not?

The citizens of Chicago have furnished another evidence of their political sagacity by sustaining the Civil Service law with a majority of 50,000. If that law is defective, it is the fault of the framers. The people intuitively favored the law because they believed in the principle. That vote, examined by wards, further shows the groundlessness of the charge against the foreign born, that they are the cause of misgovernment of large cities, and proves, conclusively, that they vote upon complicated matters as intelligently and as discriminatingly as the native born. Every ward of the North Division, for instance, gave large majorities in its favor; the old Twenty-sixth, almost exclusively inhabited by German-Americans, stands at the head of the list, with a 3,000 majority.

On the day after this popular triumph over the combined efforts of interested parties, the *Chicago Tribune*, in an editorial, gave to the Chicago electorate the following flattering certificate of civic maturity: "One of the most gratifying results of yesterday's election in Chicago is the adoption of the Civil Service law by 45,000 majority [50,000 is the official return], which under the circumstances may be considered as an emphatic expression of the popular will. It had a strong and well organized opposition. The ringsters, boodlers and

machine men were combined against it, as its passage meant the loss of their professional occupation. They will now have something else to do for a living." The *Tribune's* prognostications have not been realized, and will not be until the Referendum has been made a mandate to legislators, State and municipal, for any law or ordinance demanded by a certain percentage of the electorate. Then, and not till then, will the political bosses and their following have to look out for something else to do for a living.



## CHAPTER XI.

### HISTORIC SKETCH OF THE INITIATIVE AND REFERENDUM IN SWITZERLAND.

“Democracy in Switzerland is not merely a national or cantonal matter, but has its root far down in the local bodies, and this gives to it a stability and conservatism which it lacks in most other continental nations.”—*Prof. Lowell.*

Since the fact has been historically established, that the free institutions of the United States and Switzerland are of the same ancient origin, and, since the small Alpine Republic is often pointed to as a worthy model for imitation by the greatest Republic, a brief survey of the political progress of the former is essential to a thorough understanding of the subject in hand.

By stating that the free institutions of this country and Switzerland are of the same ancient origin, the idea is not to be conveyed that, originally, free institutions were confined to the Teutonic race. Freedom must necessarily have been the original condition of mankind. The doctrine of the brotherhood of man antedates the sermon on the mount.

"This whole world," declared Cicero, "is to be regarded as the common city of God and men. Men were born for the sake of men, that each should assist the others. Nature ordains that a man should wish the good of every man, whoever he may be, for the very reason that he is a man. To reduce man to the duties of his own city and to disengage him from the duties to the members of other cities, is to break the universal society of the human race. Nature has inclined us to love men, and this is the foundation of the law."

"The whole universe," said Seneca, "which you see around you, comprising all things, both divine and human, is one. We are members of one great body. Nature has made us relatives, when it begat us from the same materials and for the same destinies. She planted in us a mutual love, and fitted us for a social life. What is a Roman knight, or freedman, or slave? These are but names springing from ambition or from injury. I know that my country is the world, and my guardians are the gods."

The thing, however, that is original and characteristic in the Teutonic race, is its keen perception of the truth of Seneca's maxim, that knights, freedmen or slaves, are but names springing from ambition or from injury. The unconquerable tenacity with which this race

successfully struggled through ages, against ambition and human greed, to keep their natural rights from being obliterated, as those of all other races have been, constitutes their most salient national trait.

The first documentary evidence of free institutions in Switzerland is the official report of the proceedings of a popular assembly, called Landsgemeinde, in the Canton Schwytz, bearing the date of 1291. From the declarations therein contained it would appear that the Austrian nobility and the priesthood had for some time been encroaching upon their ancient rights and liberties.

"If the monasteries," it says, "refuse to bear their share of taxation they shall be excluded from the enjoyment of our land, water, wood and grazing. Or, if a foreigner owns any landed property it shall be taxed. Should the tenant be oppressed by the owner of it, or dispossess him for another, no one shall receive it, or in any way interfere with the tenant, under fine of five pounds damage and return of the property to the tenant. Those unwilling to pay their fine shall not be sheltered nor given to eat or to drink, for those who were to do this will have to pay the fine."

"For a long time," says Theodore Curtis, in his work on Swiss Democracy, "the confederates defended and saved the Germanic liber-

ties with the weapon of legal proof and, then, with their strong arms. They extended the circle of their Landsgemeinde, these meetings of a sovereign people where the laws were made and all important state matters discussed and decided, while on the other hand they subjected the nobility and the priesthood to popular authority."

It is remarkable that this political status of the Allemany branch of the Teutons, to whose energy modern Switzerland owes the preservation of the Germanic popular rights, was both social and liberal. The movement of securing and extending these popular rights, and that of the emancipation from the landed aristocracy which threatened the ownership of the peasantry, went hand in hand; and it is from this circumstance that the origin of the ancient traditions of a great confederacy, which were kept alive in Southern Germany for many centuries, can readily be traced.

The popular conscience of the Germans dwelling north of the Rhine watched with deep solicitude the progress and success of the saving deeds of the Allemany, who were struggling to preserve the treasure of Teutonic liberty in the valleys of the headwaters of their German stream.

"A free German confederacy shall become a fact when the red cow shall bellow under a fir

tree of the Black Forest," is one of the traditional sayings among the people of Southern Germany, as is also the prophecy, "that Nuremberg would once be the center of that confederacy." But these beautiful dreams of a long gone past were not to be realized.

Instead of bringing liberty to their German kinsfolk north of the Rhine, some of the unnatural sons of the Swiss confederacy, grown rich and insolent through superior advantages, joined hands with their oppressors and sold for pensions and decorations the golden opportunity of increasing the Swiss territory to three times its present size, and of spreading its free institutions over millions for ages to come. Not satisfied with this act of base betrayal, these same renegades against popular institutions, styling themselves patricians, by intrigue, stealth and brutal force, brought by slow degrees three-fourths of the population, or almost all dwellers of the country districts, to the level of the serfs.

The three centuries between the heroic period of Swiss history and the partial restoration of the people's rights, toward the close of the Eighteenth Century, are filled with records of the most infamous usurpations of power, of insatiable greed and brutal cruelty on the part of a handful of parvenues, who, living in fortified cities and surrounded by mercenaries, op-

pressed and despoiled the country people with absolute impunity.

The severity with which the few men who dared to raise their voices against these indignities were persecuted, had rendered all efforts toward an improvement of their condition nugatory, and it was not until the ideas of the French Revolution of 1789 had begun to permeate the minds of the people of Continental Europe, that the political regeneration of Switzerland could safely be taken in hand by a small number of her courageous patriots.

With Napoleon's mediation act, restoring to the Swiss cantons, or states, their ancient local self-government, insuring the integrity of the confederation, and destroying the rule of the oligarchies, Switzerland entered upon her new era of constitutional government. At the downfall of Napoleon, however, the reactionary policy pursued by the Holy Alliance brought the aristocracies of cities again to the front.

Cherbulitz, in his *Démocratie en Suisse*, says: "Napoleon's act of mediation had created an aristocracy of ability; the Restoration re-established the aristocracy of birth and the predominance of certain localities. The control exercised by the nation over its government was not active enough to be efficient. No machinery existed by which the majority of the

Representatives could be influenced by the wishes of the people and in the interest of the country, as a whole. All the positions of honor in the state were monopolized by certain families. An opposition party soon arose, however, whose aim was to put an end to the political disability created by the reactionary constitution of 1815—a movement which received a powerful impetus from the Revolution in Paris in 1830. This sudden outbreak of popular wrath against the Bourbon dynasty aroused the Swiss to a state of indescribable excitement. The whole country was ablaze with patriotic fervor. Mass-meetings were held everywhere at which the orators dwelt upon the wrongs endured by the patient people, and demands were presented to those in authority for redress. Under the strong pressure of public opinion the Federal Diet was compelled to meet in December, 1830, in extraordinary session and to adopt the following decree:

“ ‘The Federal Diet unanimously approves of the principle that each canton in the Confederation, by virtue of its sovereignty, has the right to make whatever amendment to its constitution it may judge necessary, provided these amendments be not contrary to the Federal agreement. The Diet, therefore, will not interfere in such constitutional reforms as have already been or are about to be effected.’ ”

In pursuance of this advanced step, twenty revisions of cantonal constitutions took place, every one of which—the Canton of Friburg excepted—were submitted to a vote of the people. With the exception of a few of the small cantons, which preferred to retain their ancient system of *Landsgemeinde*, or Teutonic Folk-mote, the representative system was generally adopted; the sovereignty of the people was proclaimed, universal suffrage introduced and liberty of the press guaranteed.



## CHAPTER XII.

### THE REFERENDUM IN THE CANTONS.

This system answered for a time; but this indirect participation in the common affairs of the canton, while an improvement, did not satisfy public sentiment, which the memories of a glorious past had rekindled. On every side soon loud demands were heard for direct participation by the people in legislation, more particularly and specifically from the Canton of St. Gall, where Felix Diog, one of the members of the Constitutional Assembly, gave vent to the sentiment by declaring: "The people are sovereign! the people, and the people only, should exercise supreme power; their will should be law; sovereignty cannot be delegated; a sovereign who acts only through deputies may be said to have abdicated. The people have been declared of age. It is, therefore, out of the question that the great Council (House of Representatives) should be constituted their guardian."

Mr. Diog's declaration elicited universal approval among the people, but the majority of

his colleagues of the Convention were not "ripe" for this advanced step and the proposition to intrust the people with the important and far-reaching power of the Initiative was defeated by a vote of 75 against 66—a majority of nine votes. Nevertheless, a forward step was obtained by a compromise which gave the people the veto upon legislation.

Many of the cantons followed the example of St. Gall. The spirit of reform was abroad, and in 1845 the inhabitants of the canton De-Vaud took the lead, taking a much more advanced position. Their new constitution provided that, if eight thousand citizens demanded a vote of the people for 'the enactment of any new law, or the repeal of an old one,' the House of Representatives should obey such demand.

While the constitutions of a large majority of the cantons had thus experienced material alterations the reactionary federal compact of 1815 still remained in force. Its features were not in harmony with the organic laws of the different cantons and a change in the federal compact, or rather the formation of a constitution for the Swiss Confederation was strongly agitated. The French Revolution of 1848, occurring about that time, greatly assisted this movement, which resulted in a constitutional convention being called in the course of the same year.

The fundamental law therein formulated placed the legislative authority of the confederation in a Federal Assembly consisting of two chambers, with other features almost a copy of the constitution of the United States, with the exception, however, that the executive authority was vested in a council of seven members chosen by the Federal Assembly in joint session. It also provided that the constitution may be amended at any time upon the demand of 50,000 electors. This provision was a long step in advance of that of Article V of the American Constitution, by which the people of the different States are practically barred from even suggesting, much less participating in such amending. The cumbersome methods and conditions placed in the way of making desired amendments are almost unsurmountable barriers to any change in the fundamental law of our country.

In addition to this forward movement by progressive men in Switzerland, a quiet but most effective process had been set in operation among the youth in the schools of the various cantons. The glorious achievements of their forefathers in their stubborn struggles for liberty were made the specific topics in the study of Swiss history, and, the fact that their ancestry had lived in peace and happiness under their self-constituted government and self-

made laws, established a thousand years before, kindled in their youthful breasts the high resolve never to rest until their ancient rights had been fully recovered. Thus, by united aims and actions, the agitation for popular participation in legislation proceeded slowly, but intellectually, all alone the line.

It is the people of the canton of Zurich, however, the great center of intellectual endeavor, to whom the honorable title of "political pioneers" is due. During the latter part of 1867 a committee, composed of prominent citizens from different parts of the canton, was organized charged with the energetic agitation for a revision of their cantonal constitution. On the 8th of December, of the same year, the committee issued an address to the people in which the good results gained by the constitution of 1830, in removing the patrician privileges, and the adoption of the Representative system, were set forth and emphasized.

"Nevertheless," says the address, "during these thirty-seven years the people of Zurich have become conscious of their rights and duties as citizens. With this awakening of civic self-consciousness, the inadequacy of our uncontrolled system of representation has become glaringly manifest. In order to complete the recognized maxim, 'All for the people,' by adding 'All by the people,' it only remains to devise some new form through which popular

sovereignty may really be exercised. Our responsible and irresponsible officials either have no sympathy with this intellectual process of civic evolution, or are afraid of the people's will directly expressed. At this very moment," continues the address, "we behold the presiding officer of the assembly in the canton of Glarus bitterly denouncing the system of popular participation in legislation, while he extols the purely representative system, as the Alpha and Omega of statesman-like wisdom. But the people have advanced beyond their Representatives, and such retrogressive sentiments as those from Glarus will only have the effect of accelerating the movement for the full restoration of the people's rights."

The committee, thereupon, suggested the following, as the chief points to be obtained by a constitutional revision: "Reference of the laws to the people for adoption or rejection; the right of the people to propose or initiate laws."

In order to ascertain the effect of this spirited agitation the committee invited their fellow citizens to meet on Sunday, the 15th of September, 1867, in the four principal cities, for the purpose of recording their votes for or against a revision. The result of these meetings was a great surprise to the opponents of the Initiative and Referendum. It showed that twenty-seven thousand votes had been cast

in its favor. Such an imposing popular demonstration could not be ignored by the Legislative Council of the canton. A general election was ordered, resulting in a vote of 50,689 for, and but 7,336 against revision.

This vote made the call for a constitutional convention mandatory. The progressive party succeeded in electing a large majority of the delegates, and the following constitutional provisions were the results of their deliberations:

“When five thousand legal voters, or a number of town-meetings at which at least five thousand citizens have voted in favor of the enactment of a certain law, such law must be submitted to a vote of the people of the canton.

“If an individual citizen, or the bearer of such proposed law from a town, requests to be heard, such request must be granted, provided it receives the support of twenty-five members of the assembly.

“The co-operation of the legislative assembly in the preparation of legislative acts or resolutions to be submitted to a vote of the people is necessary.

“All such acts must be published thirty days prior to an election, such elections to be held twice a year: in spring and fall. In urgent cases the assembly may order a special election; but a law may not be put in force temporarily and before having been submitted to a popular vote. Votings to take place in the towns by

mere *Yes* or *No*. The absolute majority of all the votes cast in the canton is decisive."

The cantonal Assembly is authorized to legislate upon minor matters, such, for instance, as the expenditure for a definite purpose not exceeding \$50,000.

A writer of note says of the effect of these popular measures: "The carrying out of these reforms had a most salutary effect upon the people of the canton of Zurich. The responsibility of legislation thus transferred from the representatives to the people themselves very soon created a feeling of civic self-importance in the individual citizen. He began to appreciate the situation from the higher standpoint of sovereignty, from which, by active participation in the discussion and disposition of public measures, he was able to demonstrate his right and ability to be free. On the other hand the representatives, who heretofore had acted independently of the people, because they had no means of ascertaining the people's wishes, or, perhaps being influenced by interested motives, did not care to know, were henceforth compelled to heed the popular demands, well assured that their acts in future would be reviewed by discerning constituents."

From this time forward the canton of Zurich served all other cantons as a model for imitation, and most of these changed their constitu-

tions within the space of three years. But the sentiment for uniformity which had effected the great changes in the constitution of 1848 forced the authorities of the Confederation into bringing the latter in harmony with the advanced position taken by the cantons.

"It became certain," says Professor Simon Deploige in his *Referendum in Switzerland*, "that the federal revision so ardently desired by the radicals would have to be undertaken in a democratic spirit and that any addition to the powers of the central government must be accompanied by an extension of the rights of the people. To transfer the right of legislation on civil, criminal and commercial matters from the great councils of the cantons to the Federal Assembly (which had been strongly urged) without at the same time giving the Swiss electors an opportunity to pronounce upon these same subjects when embodied in federal laws, would have deprived the people in the democratic cantons of the fruit of their recent victories and have been a retrograde step.

"The democrats, who were in reality struggling for the rights of the people, recognized this so clearly that they made centralization their watchword as the surest way of obtaining the referendum in federal matters."

The question was agitated by the press and



in pamphlet pro and con. The discussions were highly instructive. The following few extracts of arguments, translated from Professor Deploige's work, are the most valuable contributions of this memorable controversy.

Mr. Dubs, a lawyer of distinction and member of the Federal Assembly, published his views upon the subject in a pamphlet in which he took the position that:

"We ought to try to reconcile the liberty of action necessary to the representatives with the rights that are inherent in the sovereign people. The people delegate power to their deputies, who are responsible for its proper use, and ought, therefore, to be accorded a certain latitude; but at the same time the people ought to possess some guarantee against the independence of their deputies. Without some such safeguard their sovereignty is imperiled and there is risk of its becoming a mere empty phrase."

Mr. Gengel, editor of the *Bund*, one of the most influential journals in Switzerland, published in Berne, representing the views of the more advanced Democrats, said:

"Under the system to which the name, Representative Democracy, has been given, the sovereignty of the people is a mere fiction; the people are, in fact, subordinate, and the power is in the hands of the Chambers. To say that

popular sovereignty and universal suffrage are one and the same thing is ridiculous. Whenever the elections are past the electors have no possible influence over the Chamber. They do not take part in the sittings; they do not read the Parliamentary reports, even if they exist; and in the newspapers they only get mutilated and abbreviated accounts of what has taken place. In order that popular sovereignty should not be an empty phrase and democracy a lie, the people ought themselves to approve their laws, appoint the executive, and elect the judges."

Mr. Bernt, another journalist, vigorously attacked the popular veto as insufficient:

"The statesmen of 1830," he said, "invented the veto as a sort of lightning rod for democratic claims. It was necessary to give the people something, but their object was to give as little as possible. Legislators have tried to stifle the expression of the popular will by all kinds of devices; the result has been, therefore, that for the greater part of the time the veto has only been a counterfeit on popular rights."

Mr. Ziegler, a member of the Assembly, said:

"You call the people incapable, yet they are eminently capable of electing representatives, which is quite as difficult a task as voting on laws. How can it be said that the people are incompetent to vote on laws when it is an

established principle that 'ignorance of law is no excuse for breaking it,' and in the ordinary affairs of life every one is required to know the law under which he lives?"

Concerning the optional and the compulsory referendum, Mr. Gangel says:

"Under a democratic system all the laws passed by the Chamber ought to be submitted, *ipso jure*, to the sanction of the people. When the representatives know that the laws will finally go to the people, they will make it their business to frame them in harmony with popular ideas and needs, and will try to supply the omissions, leaving the final decision in the hands of the people. With the compulsory referendum the people will vote as a matter of course, whereas in the case of the optional referendum they will only do so after a certain amount of agitation. The optional referendum does not occur, as the compulsory referendum, at certain stated intervals. It is the outburst of a discontent which has been smoldering and increasing until at last it breaks out when the opportunity offers. It is in fact a safety-valve. But the compulsory referendum is the normal and peaceful exercise of an established right by a people that have attained their political majority. Those who advocate the optional referendum attempt to restrict the exercise of this popular right to the smallest possible num-

ber of cases. The compulsory referendum, on the contrary, is the solemn recognition and practical affirmation of the sovereign power of the people."

Another eminent publicist, Mr. Hilty, in setting forth the advantages of the referendum, said:

"The majority of votes, whether for or against a law, will be recorded in such a calm and decisive manner as to leave no room for dispute; the people will no longer be subordinate; the referendum will be the best means of interesting the mass of electors in public affairs; popular voting is a natural and necessary factor in law-making, and laws so made will have a truly national character."

## CHAPTER XIII.

### THE INITIATIVE AND REFERENDUM IN THE CONFEDERATION.

The Federal Assembly met in November, 1871, for the purpose of discussing the question of revision. The President of the National Council, Mr. Brummer, in his opening speech touched upon each of the important points of revision.

"The question to be decided," he said, "is to know whether the direct intervention of the people in legislation is admissible and what should be the limits assigned it. These are the points upon which opinions clash. Since the majority of cantons have accepted the Referendum it has, in my opinion, become impossible, politically speaking, to effect any revision of the Federal Constitution, which shall involve increased centralization, without at the same time bestowing upon the Swiss people as a whole the rights which the majority of them have obtained as members of a canton."

In May, 1872, the constitution as drawn by the Federal Assembly was submitted to a popular vote; it was defeated by a small majority.

In 1874 a second attempt was made, result-

ing successfully. The following are the provisions of the Confederate Constitution referring to the Initiative and Referendum:

The Federal Constitution may at any time be wholly or partially amended. A total revision is effected through the forms required for passing federal laws. When either house of the Federal Assembly passes a resolution for the total revision of the constitution and the other house does not agree, or when 50,000 Swiss voters demand a total revision, the question whether the constitution ought to be amended is submitted to the Swiss people, who vote "yes" or "no." If in either case the majority of the enfranchised Swiss citizens decide in the affirmative, there shall be a new election of both councils for the purpose of undertaking the revision.

A partial revision may take place by means of the Popular Initiative, or through the forms prescribed for ordinary federal legislation. The Popular Initiative consists in a demand by 50,000 Swiss voters for the addition of a new article to the constitution, the repeal, or modification of certain constitutional articles already in force. When the popular initiative is used for the purpose of amending or inserting various articles in the Federal Constitution, each modification or addition must form the subject of a separate initiative demand.

The demand by initiative may be presented in the form of a proposal in general terms, or as a bill complete in all its details. When a demand is couched in general terms and the Federal Assembly approves it in substance, it is the duty of that body to draw up a partial revision in the sense of the petitioners and refer it to the cantons for acceptance or rejection.

If the Federal Assembly does not approve the proposal, then the question whether there shall be a partial revision or not must be submitted to a vote of the people; and if the majority of Swiss citizens taking part in the vote express themselves in the affirmative the revision shall be undertaken by the Federal Assembly, in conformity with the popular decision.

When a demand is presented in the form of a bill complete in all its details and the Federal Assembly approves it, the bill shall be referred to the people and the cantons for adoption or rejection.

In case the Federal Assembly does not agree, that body may draft a bill of its own, or move that the people reject the demand; and it may submit its own bill or proposal for rejection to a vote of the people at the same time as the bill emanating from the Popular Initiative.

A federal law shall determine more precisely

the manner of procedure in the case of demands by Popular Initiative, and in the votings on amendments to the Federal Constitution.

A report of the popular vote of 1874 was presented to the Committee of the Council of Cantons, or states, in which special attention was called to the following three features of this vote:

“First: The unlimited discussion preliminary to the vote, to which no opposition was offered by any party or local authority.

“Second: The large percentage of voters who went to the polls; about five-sixths of the electoral body.

“Third: The quiet and dignified manner in which the electors conducted themselves. Throughout the entire country there was not a trace of trouble or violence.”

The report concludes: “This is why this constitution has not only received the formality of law, but, in the most profound meaning of the term, is the fundamental law of Switzerland; a law that no party will attack because no party will be able to attack it; and still more, because no party will wish to attack it, so great is the respect which a legal majority inspires in this country.”

Theodore Curti, the Swiss historian and statesman, closes his *Resultate des Referendums in der Schweiz*; published in 1898, from which the following is translated:



"It has been asserted that the Referendum works affirmatively or negatively, just as the people are in good or ill humor. The history of the votings shows, however, a striking degree of discrimination with which laws have been accepted or rejected. In cases even when a number of different laws had to be voted upon on the same day, the individual discernment of the voters, in the consideration of the various questions was instantly recognized by the difference in the number of votes cast for or against either proposition.

"The charge that the citizens grow tired and indifferent, owing to the large number of votings, is just as unfounded. For various reasons the participation at these votings were exceedingly uneven; but it must be noted that the average percentage did not vary in a downward direction. Thus, from 1881 to 1887 the average percentage varied from 41 to 46 per cent; it rose to 69 per cent in 1891, and when the question of nationalizing the railroads was a second time—in 1898—submitted to the Referendum, 80 per cent of the electorate of Switzerland participated in the election.

"On the other hand, the wholesome effect the Referendum exerts upon the country cannot be overestimated. It is a political school for the people; hence an invaluable element of culture. Wherever it is applied all classes of the

population take interest and participate in discussions of the question at issue; mutually imparting and receiving valuable economic and political information; the citizens of all political shades commingle freely and argue dispassionately the pros and cons of measures of common interest. The improvement of public instruction even, goes hand in hand with the practice of more direct legislation, and the argument brought forth by its friends that superior educational methods must be provided to prepare the young for the intelligent exercise of citizenship, has often induced the people to vote liberal appropriations for educational purposes.

"As there are objections to every reform, the cry was raised: Furnish these improved methods first, and then give them the Referendum, an argument which recalls the advice of the foolish father to his son, 'not to go into the water before he could swim.' The people in the aggregate are always wiser than the few individuals who represent them in the legislative halls; they claim to know best what is good for them, and feel more keenly than do their representatives where the shoe pinches; nor are they willing to wait until they are considered 'ripe' for the proper exercise of what they are entitled to consider their fundamental rights. They intuitively perceive that it probably would be a long time before their political maturity

were conceded by those whose interest it is to keep them in ignorant dependence. They very logically argue that it is much better for them to assume their rights now in order to school and educate themselves and gain intellectual and economic freedom, through their own individual exertions.

"The Referendum has proven itself a potent factor, both to legislation and the country at large, in this: that it has strengthened the influence of public opinion upon the representative bodies who are naturally prone to assume powers which ultimately belong to the people, gradually degenerating into a ruling caste with the result that, private interests are promoted while the affairs of the people are neglected or intentionally buried in some committee.

"Moreover, these popular votings have the effect to recall the representatives to the duties they owe to their constituents and of reminding them of the necessity always to keep *en rapport* with the sentiment of the people.

"I have been a member of legislative assemblies in Switzerland for the past seventeen years, and it is my conviction that the Referendum has not prevented the passage of many beneficial laws that we desired to have enacted; but that it has prevented the committing of many errors, owing to the mere fact that it stood as a warning before us.

"I want to say in conclusion that in spite of occasional mistakes, most of which were afterwards remedied, the Referendum has proven a most powerful agency of progress in almost every field of human endeavor."

Karl Burkli, a well-known Swiss patriot, political economist and citizen of Zurich, writes as follows on the benefits of initiative and referendum:

"The smooth working of our federal, cantonal and municipal referendum is a matter of fact, a truth generally acknowledged throughout Switzerland. The Initiative and Referendum are now deeply rooted in the hearts of the Swiss people. There is no party, not even a single statesman, who dares openly oppose it in principle, and yet many of them curse the institution in the depths of their hearts.

"All the divers votings — federal, cantonal, municipal—go on without riot, corruption, disturbance or hindrance whatever, although with great agitation. It may authoritatively be said that there is no agitation for its repeal or difficulty in its working, whether in Federation (Bund) or in the cantons, or in the cities, as Zurich, Geneva, Basle, Berne, though these cities are full of foreign elements. Our Swiss political trinity—Initiative, Referendum and Proportional Representation—is not only good and holy for hard-working Switzerland,

but would be even better (I think, too) for that grand country of North America. It would cure them thoroughly of their leprous representation, both federal and state, and regenerate the misgovernments of their large cities."

Mr. McCrackan, in his interesting history of "The Rise of the Swiss Republic," says:

"The issue constantly at stake, throughout the history of the Swiss confederation, has been one of the noblest and the most persistent with which human nature has had to grapple—the question of self-government.

\* \* \* \* \*

"It will always remain the chief honor and glory of Swiss statesmanship to have discovered the solution of one of the great political problems of the ages—how to enable great masses of people to govern themselves directly. By means of the Referendum and the Initiative this difficulty has been brilliantly overcome. The essence and vital principle of the popular assembly has been rescued from perishing miserably before the exigencies of modern life, and successfully grafted upon the representative system."

## CHAPTER XIV.

### THE ONLY REMEDY.

Public sentiment is rapidly growing into a deep-felt conviction that there is no question of transcendent interest to the people of this country, that demands more prompt and rational solution, than that of government of cities. Their present status is an anomaly in our political system, they are treated as wards of the States in which they are situated, and since

“It is the curse of evil deed that,  
Propagating evil, it must breed.”

the objectors, in the State Legislature, in civic associations, in the city councils or in the public press, who continue to oppose the introduction or rather extension of the Referendum upon the flimsy pretext that the people are not ripe for its exercise, render themselves subject to the charge of giving aid and comfort to the corporate and political vampires who directly or indirectly have been and still are robbing the people of millions upon millions of their earnings.

Historian Macauley says :

"Many politicians are in the habit of laying it down as an evident proposition that no people ought to be free till they are fit to use their freedom; the maxim is worthy of the fool who resolved not to go into water until he had learned to swim."

The above fits some of the honest and most candid objectors to the Referendum exactly. Laboring under the self-contented delusion that the term "people" is synonymous with "plain people," of which they themselves form no part; that this "plain people" are not as well informed as they are themselves, should not be entrusted with the Referendum until they can be sufficiently educated to make proper use of it, or, metaphorically speaking, not to allow them to go into water until they can swim.

This is not the time for puerile objections. Evidences of demoralized political conditions are forthcoming with an alarming regularity and unless the remedying specific is applied, without undue hesitancy, they will culminate into a serious danger to our free institutions.

"Vice is a monster of such frightful mien,  
As to be hated needs but to be seen;  
But seen too oft, familiar with its face,  
We first endure, then pity, then embrace."

The presence of vice in the field of city politics is now universally recognized. It is hated by the large majority of the citizens without

regard to political party predilections, but the incentive, the vice-creating motive, seems to be underestimated or ignored. The acquisition of wealth, for the gratification of human desires, the comfort and happiness of one's family, is unquestionably the strongest incentive to all industrial, commercial and mostly of the artistical endeavors of mankind. This sentiment is honorable as it is natural, if legitimately exerted, deserves to be encouraged and fostered by public opinion. When it becomes apparent, however, that the acquisition or inordinate increase of wealth is the incentive to political debauchery, its prompt elimination becomes a public duty.

The question then arises through what method can this incentive be eliminated? By making it inoperative. Or to use a popular parlance, make the "goods bargained for" by the operator for a consideration undeliverable except under the condition that such "goods," consisting in the franchise for the operation of street cars, or any other public utility in a city or village, shall be submitted to a popular vote of such municipality. Can there be any doubt about the efficacy of such eliminating method?

Or is it supposable that shrewd financiers, as the managers of public service corporations are generally known to be, would invest hundreds of thousands and in some instances millions in



the bribery of members in State Legislatures and City Councils, without the absolute certainty that "the goods" bargained for would be delivered?

The proposition is too absurd for earnest consideration.

But the mere fact that such conditions precedent to the obtaining of any grant were inserted in the State statutes would keep the aforesaid incentive from the doors of the legislative chambers.

The gentle operator, baffled by such impediments, would either disappear from the field of public-service enterprises, or enter into negotiations with the respective authorities, actuated by the same honorable incentives with which business men enter into their daily mutual transactions.

With the disappearance of the incentive and the consequent withdrawal of the operators from the legislative halls, the "business" of politics would necessarily cease to be lucrative, hence very uninteresting to the professional politician.

Political bosses with an eye to the main chance know very little and care less about the merits or demerits of their respective party programmes, except when coupled with a fat appropriation. They take no interest in the questions of a tariff except when the term is

applied to the value of a franchise, and in that case they are for "free trade" or "for revenue only." As far as imperialism and annexation is concerned in principle, they are in favor of both; they propose to dictate what of the good things shall and what shall not be annexed. The question which is to them the vital one is that of the currency, but whether silver, gold or greenbacks, is all the same to them so long as a liberal quantity of either finds the way into their spacious pockets.

The currency question is to the boss the steam that turns the wheels of the "machine;" with the escape of the steam the machine suddenly comes to a standstill, when the "boss," who generally has amassed a comfortable fortune, goes into the horse racing business or resumes the less profitable but more honorable trade or occupation he was engaged in before he took to politics as any easy method for the most speedy accumulation of wealth.

## CHAPTER XV.

### PARTISANSHIP AND PARTISAN LEGISLATION LESSENED BY THE REFERENDUM.

Politically speaking, America is a house divided against itself, while, by the dictates of common sense, community of interests and of mutual good-fellowship, it should stand before the world as a harmonious, undivided political structure.

Unity of opinion upon any well defined subject is as impossible as it is undesirable, but it is neither sensible nor wise to divide into two or three hostile camps upon mere names or designations, with so-called platforms of numerous, "whereases and resolves," upon which the respective adherents themselves cannot possibly, and do not in fact, all agree. Although feasible and desirable, the elimination of political party issues in the United States upon National affairs can only be accomplished after the introduction and successful operation of the Initiative and Referendum in the majority of states. But in the latter, with local issues only there is practically no excuse or justification for the maintenance of this monstrous system. In absence of an object lesson on this continent, in support of these state-

ments the little Republic of Switzerland, with almost half a century of successful experience with the Referendum, will serve as an illustration of its effect upon partisanship and partisan legislation. Owing to the fact that the Referendum may be asked upon any law adopted by the Federal Legislature, political party division is hardly known in that body. As a rule a law is discussed and it stands or falls upon its merits.

It follows from this non-partisan character that the Federal or executive council is not expected to be unanimous. As a matter of form every measure has been debated by the council before it is submitted to the Federal Assembly, and it is not thought improper for a member of the executive to oppose a bill submitted by one of his colleagues, and such a member resigning because his measure has not been favorably received by the Assembly, or was defeated by the people with the Referendum, would be considered an undignified proceeding. This non-partisan sentiment permeates the entire Swiss electorate, reducing the asperities of election contests to a minimum. An honest representative, known to be conscientious in his convictions, does not fail to be re-elected because his views differ from those of his constituents.

Mr. Numa Droz, the Swiss statesman, in his

"Referendum in Switzerland," says: "When the people reject a law in virtue of their sovereign right, there is no entering into a state of conflict. The craftsman carries out the work to his satisfaction; the employer who gave the order is of a different opinion, and sends it back to be altered. The legislator is not discredited. He is in the position of a deputy whose bill has not passed; there is no want of confidence."

And Prof. A. L. Lowell says:

"There is also absence of party machinery and organization outside the houses of the Legislature. There are in the confederation no national committees, no elaborate systems of primary caucuses and general conventions, no men who make a business of arranging nominations and managing campaigns. The liberals and the radicals do occasionally hold congresses, but these are simply intended to prevent disruptions by discussing the questions of the day; they take no part in the nomination of candidates. The Referendum tends in a variety of ways to lessen the importance of parties. It entails a decision only on the special measure under consideration, and hence the people are never called upon, either at an election or a referendum, to judge the conduct of the party as a whole. It is no doubt largely for this reason that Swiss political parties have no

very definite programmes and little organization. If a law is unpopular the people simply refuse to sanction it, and this prevents an outcry against the party that enacted it. If, on the other hand, the people ratify it, there is clearly no use in trying to persuade them that the men in power were very wrong in passing it, and ought to be turned out for doing so. Nor is there any chance for an opposition to work on the popular fears by foretelling the bad laws the ruling party is likely to pass, if confirmed in power, because the people can always reject measures they do not like. Hence it is not easy to find arguments for electing a new set of Representatives, drawn either from the past or the future." For further information the reader is referred to the article on "Switzerland."

## CHAPTER XVI.

### THE REFERENDUM AS AN EDUCATIONAL AGENCY.

The most imposing feature among the excellencies of the American Republic does not consist in the superiority and magnitude of her material progress. The achievement that challenges the admiration of the civilized world is the fact that, after untold centuries of struggling humanity for the natural rights of life, liberty and the pursuit of happiness, her people have satisfactorily solved the question of popular self-government.

We owe it to the memory of the founders, to ourselves and to posterity, to rejuvenate in the hearts of the youth and in the minds of the adults the now partly obscured ideals which inspired the fathers, as the only unfailing guarantee to the perpetuity of our republican institutions.

Information is power, superior knowledge on the one hand and ignorance on the other gave the few, who in olden days became the rulers, supreme power over the lives and property of the many. Conditions have changed and information is so widespread that a recurrence of the ancient methods is out of question; but the greedy and crafty few on the

one side and the indifferently informed on the other are still among us, and unless the latter are informed of their rights and immunities and of their duties to the community, they will to a degree be taken advantage of by the unscrupulous few to the detriment of the common interest.

With the exercise of the Referendum, American citizenship will appreciate in value; it will impress the voter with the solemn obligation he is assuming, as he becomes conscious of the fact that his vote might determine the fate of an important public measure. While some will always remain indifferent and ignorant, there is hardly a community in this land, large or small, the majority of which is not well disposed and either well informed or willing to learn.

What could possibly be more conducive towards the formation of intelligent citizenship than the periodical gathering of citizens for the free expression and interchange of thought upon any public question, submitted to a Referendum?

Individual voters of humble station would enjoy, for the first time perhaps, the opportunity to relieve their minds by "speaking out in meeting" what in fact had been for some time uppermost in the public mind, but what had been disregarded by their unfaithful representatives. Who knows but that such a man, in



simple attire, apparently a working man, might astonish the audience with a remarkably deep and correct insight of the question at issue; develop unusual readiness of repartee during the discussion; in short, spring with one bound from comparative obscurity into conspicuous publicity?

On the other hand, what a splendid field for the student, the practical reformer, for the intelligent and well informed members of the various civic associations, to argue the subject of their thought and investigations before a meeting of their less informed fellow citizens, and to demonstrate to them the wisdom and expediency, or the impracticability and viciousness of the measure to be submitted to their suffrages.

## CHAPTER XVII.

### THE REFERENDUM AN OBSTACLE TO OVERLEGISLATION.

Close observation of social and legislative development reveals the fact that many important matters, mere trifles, in fact, have been made the subject of numerous different acts in the course of a few years, by which the statutes have been encumbered and confused to such a degree as to puzzle the ingenuity of a Philadelphia lawyer.

In the next place, owing to political party differences or to private interests of individuals or corporations, days and weeks are wasted in discussion, with little regard to public affairs. Were it made obligatory upon the Legislatures to submit any act affecting the people of municipalities, upon the request of a small percentage of the electorate to a popular vote, there is not a particle of doubt but that it would result in an effective cure of the law-making mania.

"None who gives attention to the matter will deny that this country would be freer and happier if there were a lawful check against laws," says the New York Evening Post. "The lack of any such checks puts on the people of every State, in every season, such a mass of re-

straints that not the lawyers themselves keep track of them, and confusion is worse confounded by the wrongness, inconsistency and mutual interference of the bills that go through the annual grist. Legislatures are commonly political rather than statesmanlike, and they put into the permanent form of law schemes for temporary and party benefit. Sometimes the laws are not even so wide as that, but are mere screws for extortion. It cannot be that so many measures are needed to preserve the uprightness of a country that is naturally as upright as any in the world, yet it is a fact that over 20,000 pages of laws issue every year from the Legislatures of our States. We live in a riot of law-making. It is a blessing that most of the measures are dead letters from the day of their enactment, yet it is a danger that any of them can be resurrected from the limbo of the forgotten and used to enforce an unjust demand or express a prejudice. Lacking a national check or standard of law, the various States and the various cities of a State can be widely divided against one another. One could multiply, through hundreds of pages, the absurdities and inconsistencies for which zeal in law-making is responsible, but it would not check their increase. *That is best prevented by allowing the people to approve or nullify their laws. Initiative and Referendum offer great possibilities."*

## CHAPTER XVIII.

### A TRAGIC OBJECT LESSON.

Perhaps the most drastic illustration in history of the consequences which may follow upon the willful refusal on the part of representatives to give the people an opportunity ultimately to determine questions of public importance is that of the trial and execution of King Louis XVI. of France.

That inoffensive monarch, a victim of the sins of his predecessors, had been tried by the French convention and sentenced to death.

The conservative Girondists, inferior in number but superior in brain, made an attempt to save the king's life by proposing to submit the sentence to a popular vote.

Robespierre, the head and front of the extremist majority, fully aware that the people of France, if appealed to would reverse the judgment, jumped to his feet and vehemently opposed the motion.

"They," he exclaimed, "cannot sit in your popular assemblies when they are engaged in the workshops; they cannot judge Louis XVI. when they, the sweat upon their brows, support the stalwart citizen who serves his country in

the field. If you hold the sovereignty of the people in such high esteem, you should know how to respect it. Fulfill the mandate they have intrusted to you.

“To refer back a measure which demands prompt action is making sport with the people. If they had the time to meet and to dispose of the affairs of the State, they would not have charged you with the task of attending to their business.”

It would be a difficult task to find within a few lines as much fiendish hypocrisy and thinly-veiled sophistry in any utterance by a public man in history as expressed by that arch-demagogue Robespierre. He willfully and deliberately lied when he said that the butchery of that weak and vacillating but well meaning king was a *measure that demanded prompt action*, except upon the cruel theory that a popular reaction might suddenly materialize and interfere with his sanguinary work.

The French people did not demand the blood of Louis XVI. Outside of the revolutionary clubs of Paris no general feeling of revenge was perceptible. The people had begun to familiarize themselves with the idea that a king was not essential to a well regulated government, and his banishment would not only have been satisfactory to the country, but probably have prevented foreign invasion.

The intelligent, far-seeing republicans, of which the Girondists were the prominent representatives, voiced public sentiment in their endeavor to save the king's life through a Referendum. They argued that Louis XVI.'s fate upon the guillotine would raise the bloodthirsty Robespierre and his fanatical followers to undisputed power, and the ruin of the Republic would be the consequence.

The revolution of 1789, with its bill of human rights, the fall of the Bastille, that monument of brutal despotism, and the great festivals of the Federation of the French, its crowning glory, were hailed with demonstrations of delight and approbation by the peoples of continental Europe. The French patriots had worked a most befitting counterpart to the American revolution. All these glorious achievements were eclipsed with Louis XVI.'s execution and Robespierre's reign of terror which immediately followed. The nations that had received the news of the revolution with joyous acclamations and were upon the point of imitating the French turned away with disgust and dismay from the carnival of blood and from the country that had replaced the tricolor with the red flag of the guillotine, in fact if not in theory.. But for the refusal of submitting the sentence of Louis XVI. a Republic after the pattern of the United States would

have been a certainty in France and a United States of Europe among the possibilities. There never will be a parallel produced on this side of the Atlantic. No fear need to be apprehended of any revolution here. Universal suffrage, free speech, a free press and public education are the political safety valves, and the spirit of fair-play among the people of the rural districts is a guarantee to the people of cities that they will not be treated as aliens, but will enjoy the same rights and privileges as the farmers themselves enjoy.

Nevertheless it may perhaps be well for the objectors to the Referendum to remember that in the end the people's cause will win and that increased strain upon the bow necessarily increases the velocity and force of the arrow!

## PRESS COMMENTS

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The author of "The Referendum" shows conclusively that, since the management of public affairs in all the large cities has fallen into the hands of political bosses, the only effective remedy is through the application of the Initiative and Referendum. He further shows that, had the people possessed the power—rightfully theirs—to regulate their affairs, in the manner indicated, they would have been saved the misery of loss of property, and the humiliation of seeing themselves hewers of wood and carriers of water, while a handful of men become millionaires through the exploitation of councils and legislatures. Again, the little volume is so full of excellent ideas and practical suggestions for the improvement of our political conditions that it should be read by every well-wisher of his country.—*New York Stadt-Zeitung*.

Hermann Lieb, author of "Abuses of Protective Tariff" and other works, has put out "The Initiative and Referendum," in which the title subjects are treated historically, and, as to their application to American public affairs, argumentatively.—*The New York World*.

It is an able effort by an able man in furtherance of the system of self-government, which, as Motley says, is "the life blood of liberty."—*Fact and Fiction*.

General Lieb's work is inspired by love of his adopted country and is worthy the attention of all political students.—*Chicago Inter Ocean*.

General Lieb is well known in Chicago as an able thinker and vigorous writer.—*The Chicago Chronicle*.



## PRESS COMMENTS

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"The Initiative and Referendum," by Hermann Lieb, is a vigorous, well-written polemic, which is of a nature, if not to convince, at least to remind. It sets us thinking. To the friends of the initiative and the referendum it will be cogent and conclusive; to others it will not seem anything but a fair statement of the other side of the question.—*Chicago Record-Herald*.

With youthful vigor and firm faith in the people General Lieb recommends the adoption of the Referendum in his recent book.—*The Illinois Staats-Zeitung*.

The work of an American by choice and not by accident of birth, General Lieb's book is alive with democratic spirit, which, however, is held in poise by a literary style at once reserved and pleasing.—*The Public, Chicago*.

Mr. Lieb's little work is deserving of careful study by those concerned in movements for municipal reform, whatever may be thought of the efficacy of the methods advocated.—*The Cleveland (O.) Plain Dealer*.

Mr. Lieb answers the question "What shall we do to save our large cities from perdition?" thus: "Let them alone." The book is worthy of being read by every man who is interested in the welfare of his country.—*Indianapolis Sentinel*.

\* \* \* All these things and more can be found in a small volume, which can be read through in an hour and give cause for reflection which will last through a lifetime.—*The Chicago Daily News*.



# *The Referendum*

BY

HERMANN LIEB.

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"The Initiative and Referendum." By Hermann Lieb. (H. Lieb, Jr., & Co.) Mr. Lieb is a well known citizen of Chicago, German by birth. He is intensely American. He loves our distinctive American institutions, but, because he admires them and knows their value, he has an impassioned desire to see the people wakened and instructed to the kind of patriotism which will duly guard the principle of popular government.—*Chicago Tribune*.

Hermann Lieb, author of "Abuses of Protective Tariff" and other works, has put out "The Initiative and Referendum," in which the title subjects are treated historically, and, as to their application to American public affairs, argumentatively.—*The New York World*.

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